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Registered Designs Bill

Bill No. 19/2000.

Read the first time on 30th June 2000.

THE REGISTERED DESIGNS ACT 2000

(No. of 2000)

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A BILL

intituled

An Act to provide for the registration of designs in Singapore, to repeal the United Kingdom Designs (Protection) Act (Chapter 339 of the 1985 Revised Edition), and to make related amendments to the Copyright Act (Chapter 63 of the 1999 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

PART I
PRELIMINARY

Short title and commencement

1. This Act may be cited as the Registered Designs Act 2000 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint. 5

Interpretation

2.—(1) In this Act, unless the context otherwise requires —

“application for registration”, in relation to a design, means an application under section 11 for the registraton of the design; 10

“article” means any article of manufacture and includes —

(a) any part of an article if that part is made and sold separately; and

(b) any set of articles;

“artistic work” has the meaning assigned to it in section 7 (1) of the Copyright Act (Cap. 63); 15

“Convention country” means a country or territory, other than Singapore, which is a party to the Paris Convention or a member of the World Trade Organisation;

“corresponding design”, in relation to an artistic work, means a design which, when applied to an article, results in a reproduction of that work; 20

“Court” means the High Court;

“design” means features of shape, configuration, pattern or ornament applied to an article by any industrial process, but does not include — 25

(a) a method or principle of construction; or

(b) features of shape or configuration of an article which —

(i) are dictated solely by the function which the article has to perform; 30

(ii) are dependent upon the appearance of another article of which the article is intended by the designer to form an integral part; or

5 (iii) enable the article to be connected to, or placed in, around or against, another article so that either article may perform its function;

“designer”, in relation to a design, means the person who creates it or, if there are 2 or more such persons, each of those persons;

10 “exclusive licence” means a licence from the registered owner of a registered design authorising the licensee, or the licensee and persons authorised by him, to the exclusion of all other persons (including the registered owner), to use the design in the manner authorised by the licence and “exclusive licensee” shall be construed accordingly;

“owner” has the meaning assigned to it in section 4;

“Paris Convention” means the Convention for the Protection of Industrial Property signed at Paris on 20th March 1883, as revised or amended from time to time;

20 “Register” means the Register of Designs maintained under section 53;

“registered design” means a design registered under this Act;

25 “registered owner”, in relation to a registered design, means the person whose name is for the time being entered in the Register as the owner of the design or, if there are 2 or more such persons, each of those persons;

“Registrar” means the Registrar of Designs referred to in section 49 and includes any Deputy Registrar of Designs referred to in that section;

30 “Registry” means the Registry of Designs established under section 51;

35 “set of articles” means 2 or more articles of the same general character that are ordinarily on sale together or intended to be used together, and to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity of the design, is applied.

(2) Unless the context otherwise requires —

- (a) any reference in this Act to the filing of a document shall be construed as a reference to the filing of the document with the Registrar;
- (b) any reference in this Act to an article in respect of which a design is registered shall, in the case of a design registered in respect of a set of articles, be construed as a reference to any article of that set; and
- (c) any reference to the infringement of a registered design shall be construed as a reference to the infringement of any right in the design conferred by this Act.

Act binds Government

3. Subject to Part IV, this Act binds the Government.

PART II

REGISTRATION OF DESIGNS

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Division 1 — Ownership of Designs

Owner of design

4.—(1) Subject to this section, the designer of a design shall be treated for the purposes of this Act as the owner of the design.

(2) Where a design is created in pursuance of a commission for money or money's worth, the person commissioning the design shall be treated as the owner of the design.

(3) Where, in a case not falling within subsection (2), a design is created by an employee in the course of his employment, his employer shall be treated as the owner of the design.

(4) Subsections (2) and (3) are subject to any agreement to the contrary between the parties concerned.

(5) Where a design, or the right to apply a design to any article, becomes vested, whether by assignment, transmission or operation of law, in any person other than the owner, either alone or jointly with the owner, that other person or, as the case may be, the owner and that other person, shall be treated for the purposes of this Act as the owner of the design or as the owner of the design in relation to that article.

(6) In the case of a design generated by computer in circumstances such that there is no human designer, the person by whom the arrangements necessary for the creation of the design are made shall be deemed to be the designer.

5

Division 2 — Registrable Designs

New design may be registered

5.—(1) Subject to the provisions of this Part, a design which is new may, upon application by the person claiming to be the owner, be registered in respect of an article specified in the application.

10 (2) A design for which an application for registration is made shall not be regarded as new if it is the same as a design —

(a) registered in respect of the same or any other article in pursuance of a prior application; or

15 (b) published in Singapore or elsewhere in respect of the same or any other article before the date of the first-mentioned application,

or if it differs from such a design only in immaterial details or in features which are variants commonly used in the trade.

20 (3) The Registrar may, in such cases as may be prescribed, direct that, for the purpose of deciding whether a design is new, an application for registration of the design shall be treated as filed on a date earlier or later than that on which it was in fact filed.

Designs contrary to public order or morality

25 6. A design is not registrable if the publication or use of it would be contrary to public order or morality.

Computer programs, etc., not registrable

7.—(1) No computer program or layout-design may be registered under this Act.

30 (2) For the purposes of subsection (1), “layout-design” has the meaning assigned to it in the Layout-Designs of Integrated Circuits Act 1999 (Act 3 of 1999).

(3) The Minister may make rules —

- (a) to exclude from registration under this Act designs for such articles of a primarily literary or artistic character as the Minister considers appropriate; and
- (b) to provide that any design described in the rules shall not be registered under this Act, or shall not be so registered unless such conditions as may be prescribed are met.

Provisions as to confidential disclosure, etc.

8.—(1) An application for registration of a design shall not be refused, and the registration of a design shall not be revoked, by reason only of —

- (a) the disclosure of the design by the owner to any other person in such circumstances as would make it contrary to good faith for that other person to use or publish the design;
- (b) the disclosure of the design in breach of good faith by any person other than the owner of the design;
- (c) in the case of a new or original textile design intended for registration, the acceptance of a first and confidential order for goods bearing the design; or
- (d) the communication of the design by the owner to a Government department or to any person authorised by a Government department to consider the merits of the design, or of anything done in consequence of such a communication.

(2) An application for registration of a design shall not be refused, and the registration of a design shall not be revoked, by reason only —

- (a) that a representation of the design, or any article to which the design has been applied, has been displayed, with the consent of the owner of the design, at an official international exhibition;
- (b) that after any such display as is mentioned in paragraph (a), and during the period of the exhibition, a representation of the design, or any article to which the design has been applied, has been displayed by any person without the consent of the owner; or

(c) that a representation of the design has been published in consequence of any such display as is mentioned in paragraph (a),

if the application for registration of the design is made no later than 5 6 months after the opening of the exhibition.

(3) In this section, “official international exhibition” means an official, or officially recognised, international exhibition falling within the terms of the Convention on International Exhibitions signed at Paris on 22nd November 1928, and any protocols to that Convention, 10 as revised or amended from time to time.

Provisions as to artistic works

9.—(1) Subject to subsection (2), where an application is filed by or with the consent of the owner of copyright in an artistic work for the registration of a corresponding design, the design shall not be 15 treated for the purposes of this Act as being other than new by reason only of any use previously made of the artistic work.

(2) Subsection (1) shall not apply if the previous use consisted of or included the sale, letting for hire, or offer or exposure for sale or hire of articles to which had been applied industrially —

20 (a) the design in question; or

(b) a design differing from it only in immaterial details or in features which are variants commonly used in the trade,

and that previous use was made by or with the consent of the copyright owner.

25 (3) The Minister may make rules to provide for the circumstances in which a design is to be regarded as having been applied industrially to articles or any description of articles for the purposes of this section.

Subsequent registration of design in respect of other articles, etc.

30 10.—(1) Where the registered owner of a design registered in respect of an article files —

(a) an application for registration of the registered design in respect of one or more other articles; or

- (b) an application for registration of a design consisting of the registered design with modifications or variations not sufficient to alter the character or substantially to affect the identity of the registered design, in respect of the same or one or more other articles,

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the application shall not be refused, and the registration made on the application shall not be revoked, by reason only of the previous registration or publication of the registered design.

(2) The right in a design registered by virtue of subsection (1) shall not extend beyond the end of the period, and any extended period, for which the right subsists in the original design.

10

(3) Where a person files an application for registration of a design in respect of an article and either —

- (a) the design has been previously registered by another person in respect of some other article; or

15

- (b) the design to which the application relates is a design previously registered by another person in respect of the same or some other article with modifications or variations not sufficient to alter the character or substantially to affect the identity of the registered design,

20

then, if at any time while the application is pending, the applicant becomes the registered owner of the design previously registered, subsection (1) shall apply as if, at the time of filing the application, the applicant had been the registered owner of that design.

Division 3 — Proceedings for Registration

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Application for registration

11. An application for registration of a design shall be filed in the prescribed manner with the Registrar, and is subject to the payment of the prescribed application fee.

Claim to priority

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12.—(1) If —

- (a) a person has filed an application for registration of a design in a Convention country (referred to in this section as the basic application); and

(b) within 6 months after the date on which the basic application was filed, he or his successor in title files an application for registration of the design under this Act in respect of all or any of the same articles in respect of which registration was sought in the Convention country,

he or his successor in title may, when filing the application under this Act, claim a right of priority for the registration of the design in respect of all or any of those articles.

(2) Where a right of priority is claimed in respect of an application for registration of a design in accordance with subsection (1), the application shall be treated, for the purpose of determining whether that or any other design is new, as filed on the date the basic application was filed.

(3) Subsection (2) shall not be construed as excluding the power to give directions under section 5 (3) in relation to the application for registration.

(4) Notwithstanding any of the provisions of this Act, where a right of priority is claimed in respect of an application for registration of a design, the application shall not be refused, and the registration of the design under this Act shall not be revoked, by reason only of the fact that the basic application has been published at any time after the filing date of the basic application.

(5) Any filing of an application for protection of a design in a Convention country which is equivalent to a regular national filing under its domestic legislation or any international agreement shall be treated as giving rise to the right of priority.

(6) For the purpose of subsection (5), “regular national filing” means any filing which is adequate to establish the date on which the application was filed in the Convention country, whatever the subsequent fate of the application may be.

(7) Where a subsequent application for registration of a design that was the subject of an earlier basic application was filed in the same Convention country, and —

(a) the earlier basic application has been withdrawn, abandoned or refused, without having been laid open to public inspection and without leaving any rights outstanding; and

(b) the earlier basic application has not yet served as a basis for claiming a right of priority,

the period of 6 months referred to in subsection (1) (*b*) shall be reckoned from the date on which the subsequent application was filed, and the earlier basic application may not thereafter serve as a basis for claiming the right of priority.

(8) The Minister may make rules as to the manner of claiming a right of priority under this section. 5

Claim to priority of other overseas applications

13.—(1) The Minister may by order confer on a person who has filed an application for registration of a design in a country or territory to which the Government has entered into a treaty, convention, arrangement or engagement for the reciprocal protection of registered designs, a right to priority, for the purpose of registering the same design under this Act for some or all of the same articles, for a specified period from the date of filing of that application. 10

(2) An order under this section may make provision corresponding to that set out in section 12 or such other provision as appears to the Minister to be appropriate. 15

Withdrawal of application

14.—(1) An applicant may withdraw his application for registration of a design by filing a notice of withdrawal with the Registrar in the prescribed manner before the date on which preparations for publication under section 18 have been completed, as determined by the Registrar. 20

(2) Where a notice of withdrawal is filed in accordance with subsection (1), the application shall be treated as withdrawn, and such withdrawal is irrevocable. 25

Amendment of application

15.—(1) The Registrar may, on his own initiative or upon request made to him in the prescribed manner by the applicant and payment of the prescribed fee, amend an application for registration of a design. 30

(2) An application for registration of a design shall not be amended if, as a result of the amendment, the scope of the application would be increased by the inclusion of matter that was not in substance disclosed in the application as filed. 35

(3) The Registrar shall not be obliged to correct on his own initiative any error not due to the default of the Registrar.

(4) Where the Registrar proposes to make any amendment on his own initiative, he shall give notice of the proposal to every person
 5 who appears to him to be likely to be affected by the amendment, and shall give the person an opportunity to be heard before making the amendment.

Examination of application

16.—(1) The Registrar shall examine an application for
 10 registration of a design, being an application which has not been withdrawn, to determine whether it satisfies the formal requirements.

(2) If the Registrar determines that an application fails to comply with the formal requirements, he shall notify the applicant and give him an opportunity to correct the non-compliance within such period
 15 as the Registrar determines.

(3) If the non-compliance is not corrected within the period referred to in subsection (2), the application shall be treated as withdrawn, but the Registrar may, upon —

- 20 (a) the filing by the applicant of a notice in the prescribed form requesting reinstatement of the application;
 - (b) the payment of the prescribed fee; and
 - (c) the compliance by the applicant with such conditions as the Registrar may impose,
- reinstate the application.

25 (4) Upon reinstatement of an application, any right or means of redress lost by the applicant as a result of the withdrawal shall be restored to him.

(5) For the purposes of this section and sections 17 and 18, “formal requirements” means those requirements of section 11, and of rules
 30 made for the purposes of that section, that are prescribed as formal requirements.

Refusal of application

17.—(1) The Registrar may refuse an application for registration of a design if —

- 35 (a) after an examination by him under section 16; and

(b) after giving the applicant the opportunity to correct any non-compliance with the formal requirements, the Registrar determines that the application does not satisfy the formal requirements.

(2) The Registrar may refuse an application for registration of a design if, on the face of the application, the design is not new or is not registrable for any other reason. 5

(3) The Registrar shall give notice of any refusal under this section to the applicant.

Registration and publication

10

18. Subject to section 17, if the Registrar determines that an application for registration of a design satisfies the formal requirements, he shall as soon as practicable —

- (a) register the design by entering the prescribed particulars in the Register; 15
- (b) enter the name of the applicant, or the successor in title to the application, in the Register as the owner of the design;
- (c) issue a certificate of registration to the person who is the registered owner of the design at the time the design is registered; and 20
- (d) publish a notice of the registration and a representation of the design in the *Gazette*.

Only formality examination required

19. The Registrar, in determining whether to accept an application for registration of a design, shall not be required to consider or have regard to — 25

- (a) the registrability of the design;
- (b) whether the applicant is entitled to any right of priority claimed in the application; or
- (c) whether the design is properly represented in the application. 30

Date of registration

20.—(1) Subject to this section, a design when registered shall be registered as of the date on which the application for registration is

filed, and that date shall be deemed for the purposes of this Act to be the date of its registration.

(2) If —

- 5 (a) the application was in respect of a design whose registration had also been sought in a Convention country;
 - (b) the applicant has a right of priority by virtue of section 12 for the registration of the design in respect of an article; and
 - (c) the design is registered under this Act,
- the registration of the design in respect of that article is taken to have
10 had effect from (and including) the date on which the application was filed in that country.

(3) If —

- 15 (a) the application was in respect of a design whose registration had also been sought in a country or territory in relation to which an order under section 13 was made;
 - (b) the applicant has a right of priority by virtue of that order for the registration of the design in respect of an article; and
 - (c) the design is registered under this Act,
- the registration of the design in respect of that article is taken to have
20 had effect from (and including) the date on which the application was filed in that country or territory.

Division 4 — Duration of Registration

Initial period of registration and extension

25 **21.**—(1) The initial period of registration of a design is 5 years from the date of registration of the design.

(2) The period of registration of a design may be extended for a second and third period of 5 years, by applying to the Registrar for an extension, and paying the prescribed extension fee, before the expiry of the current period of registration.

30 (3) The Minister may make rules for the Registrar to inform the registered owner of a design, before the expiry of the current period of registration, of the imminent expiry of the registration and the manner in which it may be extended.

(4) If the application and payment are not made before the expiry of the current period of registration, the registration of the design shall cease to be in force upon the expiry of that period and shall be removed from the Register.

(5) If, during the period of 6 months immediately following the expiry of the current period of registration, an application for extension is made and the extension fee and any prescribed late fee are paid, the registration of the design shall be treated as if it had never ceased to be in force, and accordingly —

- (a) anything done under or in relation to any rights in the design by or with the consent of the owner during that period shall be treated as valid;
- (b) an act which would have constituted an infringement of the design if the registration had not ceased to be in force shall be treated as an infringement; and
- (c) an act which would have constituted use of the design for the services of the Government under Part IV if the registration had not ceased to be in force shall be treated as such use.

Exceptions relating to artistic works, etc.

22.—(1) Notwithstanding section 21, where it is shown that a registered design —

- (a) was at the time it was registered a corresponding design in relation to an artistic work in which copyright subsists under the Copyright Act (Cap. 63); and
- (b) by reason of a previous use of that work would not have been registrable but for section 9 (1),

the period of registration of the design expires when the copyright in that work expires, if that is earlier than the time at which it would otherwise expire, and it may not thereafter be extended.

(2) Notwithstanding section 21, the period of registration of a design registered by virtue of section 10 (1) shall not extend beyond the end of the period of registration, and any extended period of registration, of the original registered design.

*Division 5 — Proceedings for Determination of Rights
in Registered Designs*

Determination of rights after registration

23.—(1) After a design is registered, any person having or claiming
5 an interest in the design may apply to the Court to determine —

- (a) who is the true owner of the design;
- (b) whether the design should have been registered in the name
of the person in whose name it was registered; or
- (c) whether any right in the design should be transferred or
10 granted to any other person,

and the Court shall determine the question and may make such order
as it considers appropriate to give effect to the determination.

(2) Without prejudice to the generality of subsection (1), an order
referred to in that subsection may contain one or more of the
15 following directions:

- (a) that the name of the applicant be entered in the Register as
the owner or one of the owners of the design (whether or not
to the exclusion of any other person);
- (b) that the transaction by virtue of which that person has
20 acquired any right in the design be registered;
- (c) that a licence for the use of the design be granted; and
- (d) that the registered owner of the design or any person having
any right in the design carry out such act as the Court
considers appropriate to give effect to any directions in the
25 order.

(3) If any person to whom a direction referred to in subsection
(2) (d) was given fails to comply with the direction within 14 days
after the date of the order, the Court may, on application made to it
by any person in whose favour or on whose application the order was
30 made, authorise the second-mentioned person to do that thing on
behalf of the person to whom the direction was given.

(4) If an application under this section is made after the end of the
period of 2 years from the date of issue of the certificate of
registration referred to in section 18 (c) in respect of the design in
35 question, no order shall be made under subsection (1) transferring
any right in the design from the registered owner to any other person

on the ground that the registered owner was not entitled to be registered as the owner, unless it is shown that the registered owner knew at the time of the registration or of the transfer of the design to him, as the case may be, that he was not entitled to be registered as the owner.

5

(5) The Court shall not make any order under subsection (1) unless notice of the application has first been given to —

(a) the registered owner of the design; and

(b) each person registered as having a right in the registered design who is not a party to the application.

10

Effect of order made under section 23 on third party

24.—(1) Where an order is made under section 23 (1) that a registered design be transferred from any person or persons (referred to in this section as the old owner or owners) to one or more persons (whether or not including an old owner), then, except in a case falling within subsection (2), any licences or other rights granted or created by the old owner or owners shall, subject to section 34 and to the provisions of the order, continue in force and be treated as granted by the person or persons to whom the design is ordered to be transferred (referred to in this section as the new owner or owners).

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20

(2) Where an order is so made that a registered design shall be transferred from the old owner or owners to one or more persons none of whom was an old owner (on the ground that the design was registered in the name of a person not entitled to be registered as an owner), any licences or other rights in the design shall, subject to the provisions of the order and subsection (3), lapse on the registration of that person or those persons as the new owner or owners of the design.

25

(3) Where an order referred to in subsection (2) is made and, before particulars of the reference resulting in the making of the order are entered in the Register, the old owner or owners or a licensee —

30

(a) carried out in good faith an act which would have constituted an infringement of the design if particulars of the reference had been registered at the time the act was done; or

35

(b) made in good faith effective and serious preparations to carry out such an act,

the old owner or owners or the licensee shall, on making a request to the new owner or owners within the prescribed period, be entitled to
 5 be granted a licence (but not an exclusive licence) to continue to do the act or, as the case may be, to do the act.

(4) A licence under subsection (3) shall be for a reasonable period and subject to reasonable terms.

(5) The new owner or owners of the registered design or any
 10 person claiming that he is entitled to be granted a licence under subsection (3) may apply to the Court for a determination of whether —

(a) that person is so entitled; or

(b) the period or terms of any such licence granted are
 15 reasonable.

(6) The Court shall make the determination under subsection (5) and may —

(a) order the grant of a licence on such terms and for such period as it considers reasonable; or

20 (b) vary the period or terms of the licence.

Licences granted by order of Court

25. Any order made under section 23 (1) or 24 (6) for the grant of a licence shall, without prejudice to any other method of enforcement, have effect as if it were a deed, executed by the
 25 registered owner of the registered design and all other necessary parties, granting a licence in accordance with the order.

Division 6 — Surrender and Revocation of Registration

Surrender of registration

26.—(1) The registration of a design may be surrendered by the
 30 registered owner in respect of all or any of the articles for which the design is registered.

(2) The Minister may make rules —

(a) as to the manner and effect of a surrender; and

- (b) for protecting the interest of other persons having a right in the design.

Revocation of registration

27.—(1) At any time after a design has been registered, any interested person may apply to the Registrar or the Court for the revocation of the registration of the design on the ground that the design was not, at the date of its registration, new, or on any other ground on which the Registrar could have refused to register the design; and the Registrar may make such order on the application as he thinks fit. 5 10

(2) At any time after a design has been registered, any interested person may apply to the Registrar or the Court for the revocation of the registration on the ground that —

- (a) the design was at the time it was registered a corresponding design in relation to an artistic work in which copyright subsisted; and 15

- (b) the right in the registered design has expired in accordance with section 22 (1),

and the Registrar may make such order on the application as he thinks fit. 20

(3) If proceedings concerning a design are pending in the Court, an application for the revocation of its registration must be made to the Court.

(4) If an application for the revocation of the registration of a design is made to the Registrar, he may at any time refer the application to the Court. 25

(5) An application to the Registrar for the revocation of the registration of a design shall be made in the prescribed manner and be accompanied by the prescribed fee.

(6) A revocation takes effect — 30

- (a) in the case of a revocation under subsection (1), from the date of registration; and

- (b) in the case of a revocation under subsection (2), from the date on which the right in the registered design expired.

(7) The Minister may make rules to provide for revocation proceedings before the Registrar and for matters relating thereto. 35

*Division 7 — Miscellaneous***Right to information**

28.—(1) After the registration of a design and upon the filing of a written request by any person in the prescribed manner and the
5 payment of the prescribed fee, the Registrar shall —

- (a) give the person making the request such information; and
- (b) permit him to inspect such documents,

relating to the application for registration of the design (including any representation or sample of the design) as may be specified in the
10 request, subject, however, to such conditions as may be prescribed.

(2) Rules may be made empowering the Registrar to refuse any request in respect of such information or documents as may be prescribed.

(3) Until notice of registration of a design is published under
15 section 18, any information or documents constituting or relating to the application for registration shall not, without the consent of the owner or the applicant, as the case may be, be published or communicated to any person by the Registrar.

(4) Subsection (3) shall not prevent the Registrar from publishing
20 or communicating to others any prescribed information relating to an application for registration of a design.

(5) Where a person is notified that an application for registration of a design has been made and that the applicant will, if the design is registered, bring proceedings against that person in the event of his
25 doing an act specified in the notification, that person may make a request under subsection (1), and the Registrar may grant the request under that subsection without the consent of the applicant, notwithstanding that the design has not been registered.

Provisions for secrecy of certain designs

30 29.—(1) Where an application for registration of a design has been made and it appears to the Registrar that the design is one of a class notified to him by the Minister as relevant for defence purposes, the Registrar shall give directions for prohibiting or restricting —

- (a) the publication of information with respect to the design; or

- (b) the communication of such information to any person or class of persons specified in the directions.

(2) Rules may be made for securing that where such directions are given —

- (a) the representation of the design; and 5
- (b) any evidence filed in support of the application for registration,

shall not be open to public inspection in the Registry during the continuance in force of the directions.

(3) Any person who fails to comply with a direction of the Registrar shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or to both. 10

(4) Where such directions are in force, the application —

- (a) shall be held in abeyance after the formal requirements referred to in section 16 have been satisfied; and 15
- (b) notwithstanding section 18, shall not proceed to be processed in accordance with that section until the directions are revoked under subsection (5) (d).

(5) Where the Registrar gives such directions, he shall give notice of the application and of the directions to the Minister, and thereupon the following provisions shall have effect: 20

- (a) the Minister shall consider whether the publication of the design would be prejudicial to the defence of Singapore;
- (b) the Minister may at any time inspect the representation of the design, or any evidence referred to in subsection (2) (b); 25
- (c) if, upon the consideration of the design at any time, it appears to the Minister that the publication of the design would not, or would no longer, be prejudicial to the defence of Singapore, notice may be given to the Registrar to that effect; and 30
- (d) on the receipt of such notice, the Registrar shall revoke the directions and may, subject to such conditions (if any) as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application for registration, whether or not that time has previously expired. 35

(6) Where —

(a) directions given under this section in relation to an application for registration of a design are revoked;

(b) the design is registered; and

5 (c) it appears to the Minister that the applicant has suffered hardship while the directions were in force,

the Minister may make such payment (if any) by way of compensation to the applicant as appears to the Minister to be reasonable having regard to all relevant circumstances.

10 (7) Nothing in this section shall prevent the disclosure of information concerning a design to a Government department or authority for the purpose of obtaining advice as to whether the directions under this section with respect to an application for registration of that design should be made, amended or revoked.

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PART III

RIGHTS IN REGISTERED DESIGNS

Division 1 — Rights of Registered Owner of Registered Design

Rights conferred by registration

20 **30.**—(1) The registration of a design under this Act gives to the registered owner the exclusive right —

(a) to make in Singapore or import into Singapore —

(i) for sale or hire; or

(ii) for use for the purpose of trade or business; or

25 (b) to sell, hire, or offer or expose for sale or hire, in Singapore, any article in respect of which the design is registered and to which that design or a design not substantially different from it has been applied.

30 (2) For the purposes of this Act, the right in a registered design is infringed by any person who, without the consent of the registered owner and while the registration is in force —

(a) does anything which by virtue of subsection (1) is the exclusive right of the registered owner;

- (b) makes anything for enabling any article referred to in subsection (1) to be made in Singapore or elsewhere;
- (c) does anything in relation to a kit that would constitute an infringement of the design if it had been done in relation to the assembled article; or 5
- (d) makes anything for enabling a kit to be made or assembled, in Singapore or elsewhere, if the assembled article would be an article referred to in subsection (1).

(3) In subsection (2), “kit” means a complete or substantially complete set of components intended to be assembled into an article. 10

(4) In the application of subsection (2) to a registered design of which there is more than one registered owner, the reference to the registered owner shall be construed —

- (a) in relation to any act, as a reference to the registered owner or those registered owners who is or are entitled to do that act by virtue of section 33 or any agreement; and 15
- (b) in relation to any consent, as a reference to the registered owner or those registered owners who is or are the proper person or persons to give the consent by virtue of section 33 or any agreement. 20

(5) For the purposes of this Act, the right in a registered design is not infringed by —

- (a) the doing of any act for a private non-commercial purpose; or
- (b) the doing of any act for the purpose of evaluation, analysis, research or teaching. 25

(6) The right in a registered design is not infringed by the reproduction of a feature of the design which, by virtue of paragraph (b) of the definition of “design” in section 2 (1), is left out of account in determining whether the design is registrable. 30

(7) The right in a registered design is not infringed by the import, sale, hire, or offer or exposure for sale or hire of any article to which the design has been applied, and which has been placed on the market, whether in Singapore or elsewhere, by or with the consent (conditional or otherwise) of the registered owner. 35

Rights of third parties to continue use of registered designs

31.—(1) A person who, before the date of registration of a design —

- 5 (a) does in good faith in Singapore an act which would have constituted an infringement of the design if the registration had been in force at the time the act is done; or
- (b) makes in good faith effective and serious preparations to do such an act in Singapore,

10 has the right to continue to do the act or, as the case may be, to do the act.

(2) If the act was done, or the preparations were made, in the course of a business, the person entitled to the right conferred by subsection (1) may —

- 15 (a) authorise the doing of that act by any of his partners for the time being in that business; and
- (b) assign that right, or transmit it on death (or in the case of a body corporate on its dissolution), to any person who acquires that part of the business in the course of which the act was done or the preparations were made.

20 (3) The right conferred by subsection (2) shall not include a right to grant a licence to any person to do an act referred to in subsection (1).

25 (4) Where an article is disposed of to another person in exercise of a right conferred by subsection (1), that other person and any person claiming through him may deal with the article in the same way as if it had been disposed of by the owner of the design concerned.

Division 2 — Registered Design as Object of Property

Nature of registered design

30 **32.**—(1) A registered design or any right in it is personal property and may be assigned or transmitted in the same way as other personal property.

(2) A registered design or any right in it may be vested by an assent of personal representatives.

(3) A licence may be granted for the use of a registered design and, to the extent that the licence so provides, a sub-licence may be granted under any such licence.

(4) Any such licence or sub-licence —

(a) may be assigned or transmitted in the same way as personal property; and 5

(b) may be vested by an assent of personal representatives.

(5) Subsections (1) to (4) shall have effect subject to this Act.

(6) An assignment of a design or a right therein, or an assent relating to a registered design or a right therein, is not effective unless it is in writing and signed by or on behalf of the assignor or, as the case may be, a personal representative. 10

(7) Subsection (6) may be satisfied in a case where the assignor or personal representative is a body corporate by the affixing of its seal.

(8) Subsections (6) and (7) shall apply to an assignment by way of security as they apply to any other assignment. 15

(9) An assignment of a registered design or any right in it, or an exclusive licence in relation to a registered design, may confer on the assignee or licensee the right of the assignor or licensor to bring proceedings under section 23 or 36. 20

Co-ownership of registered design

33.—(1) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them shall be entitled to an equal undivided share in the rights in the design. 25

(2) Subject to this section and to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them shall be entitled, by himself or his agent, to do in relation to the design and for his own benefit and without the consent of, or the need to account to, the other or others, an act which would otherwise amount to an infringement of the design. 30

(3) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, no registered owner shall, without the consent of each of the others, grant a licence for the use of the design or assign any interest in it. 35

(4) Nothing in subsection (1) or (2) shall affect the mutual rights or obligations of trustees or personal representatives of a deceased person, or their rights or obligations as such.

Registration of transactions affecting registered design

5 **34.**—(1) On application being made to the Registrar by —

- (a) a person claiming to be entitled to any interest in a registered design by virtue of a registrable transaction; or
- (b) any other person claiming to be affected by such a transaction,

10 the prescribed particulars of the transaction shall be entered in the Register.

(2) The following are registrable transactions under subsection (1):

- (a) an assignment of a registered design or any right in it;
- (b) the grant of a licence or sub-licence for the use of a registered design;
- 15 (c) the grant of any security interest (whether fixed or floating) over a registered design or any right in it;
- (d) the making by personal representatives of an assent in relation to a registered design or any right in it;
- 20 (e) an order of the Court or other competent authority transferring a registered design or any right in it.

(3) Until an application has been made for registration of the prescribed particulars of a registrable transaction, the transaction is ineffective as against a person acquiring a conflicting interest in the registered design in ignorance of it.

(4) Notwithstanding any provision of this Act, a person who becomes the registered owner or licensee of a registered design by virtue of a registrable transaction is not entitled to —

- (a) damages or account of profits in respect of any infringement of the registered design occurring after the date of the transaction and before the date of application for registration of the prescribed particulars of the transaction; or
- 30 (b) compensation under section 46 in respect of the use of the design for the services of the Government occurring after the
- 35

date of the transaction and before the date of application for registration of the prescribed particulars of the transaction.

Rights in application for registration

35.—(1) Sections 32, 33 and 34 shall, with the necessary modifications, apply in relation to an application for registration of a design 5 as they apply in relation to a registered design.

(2) For the purposes of subsection (1), the reference in section 34 to the making of an application for registration of particulars shall be construed as a reference to the giving of a written notice to the Registrar in the prescribed manner of particulars of the relevant 10 transaction, instrument or event relating to the application for registration.

Division 3 — Infringement Proceedings

Infringement proceedings

36.—(1) An infringement of a registered design is actionable by 15 the registered owner.

(2) Subject to the provisions of this Act, the relief the Court may grant in infringement proceedings includes —

- (a) an injunction (subject to such terms, if any, as the Court thinks fit); and 20
- (b) either damages or an account of profits.

(3) Subject to the provisions of this Act, no proceedings shall be taken for an infringement of a registered design committed before the date on which the certificate of registration of the design is issued under section 18. 25

Infringement proceedings by co-owner

37.—(1) Subject to any agreement to the contrary, where there is more than one registered owner of a registered design, each of them shall be entitled to bring proceedings for an infringement of the design. 30

(2) In proceedings taken by a registered owner by virtue of this section, the other registered owner or owners shall be made a party or parties to the proceedings, but if any other registered owner is

made a defendant he shall not be liable for any costs or expenses unless he takes part in the proceedings.

Infringement proceedings by exclusive licensee

38.—(1) The holder of an exclusive licence under a registered
5 design shall have the same right as the registered owner to bring proceedings for an infringement of the design committed after the date of the grant of the licence, and references to the registered owner in the provisions of this Act relating to infringement shall be construed accordingly.

10 (2) In awarding damages in any infringement proceedings taken by an exclusive licensee, the Court may take into consideration only the losses suffered or likely to be suffered by the exclusive licensee as a result of the infringement.

15 (3) In ordering an account of profits in any infringement proceedings taken by an exclusive licensee, the Court may take into consideration only the profits derived from the infringement which are attributable to the infringement of the exclusive licensee's rights.

20 (4) In any infringement proceedings taken by an exclusive licensee, the registered owner shall be made a party to the proceedings, but if the registered owner is made a defendant he shall not be liable for any costs or expenses unless he takes part in the proceedings.

General restriction on recovery of damages or profits

25 39.—(1) In infringement proceedings, the Court shall not award damages, nor make an order for an account of profits, against a defendant who proves that at the date of the infringement he was not aware, and had no reasonable grounds for believing, that the design in question was registered.

30 (2) For the purposes of subsection (1), a person shall not be taken to have been aware, or to have had reasonable grounds for believing, that the design was registered by reason only of the application to an article, or to any printed matter accompanying an article, of the word "registered", or any word or words or abbreviation expressing or
35 implying that the design has been registered, unless the registration number of the design accompanied the word or words or abbreviation.

Order for delivery up

40.—(1) Where the defendant to proceedings for infringement of a registered design has in his possession —

- (a) any infringing articles in relation to that design; or
- (b) anything predominantly used for the making of infringing articles, which the defendant knows or has reason to believe has been or is to be used to make infringing articles,

the Court may, in addition to any relief granted under section 36, order the articles or thing to be delivered to the plaintiff.

(2) No order shall be made under this section unless the Court also makes, or it appears to the Court that there are grounds for making, an order under section 41.

(3) A person to whom any article or thing is delivered up in pursuance of an order made under this section shall, if an order under section 41 is not made, retain them pending the making of an order, or the decision not to make an order, under that section.

(4) In this section and section 41, an article is an “infringing article” in relation to a registered design if the design or a design not substantially different from it has been applied to the article and —

- (a) the application of the design to the article was an infringement of the design;
- (b) the article is imported into Singapore in such a way as to infringe the design; or
- (c) the article is sold, let for hire, or offered or exposed for sale or hire in Singapore in such a way as to infringe the design.

Order for disposal

41.—(1) Where any infringing article or thing has been delivered up in pursuance of an order made under section 40, an application may be made to the Court —

- (a) for an order that it be destroyed or forfeited to such person as the Court thinks fit; or
- (b) for a decision that no such order should be made.

(2) In deciding what order, if any, should be made, the Court shall have regard to —

(a) whether other remedies available in proceedings for infringement would be adequate to compensate the plaintiff and protect his interest; and

(b) the need to ensure that no infringing article or thing is disposed of in a manner that would adversely affect the plaintiff.

(3) The Court shall issue directions as to service of notice on persons having an interest in the article or thing.

(4) Any person having an interest in the article or thing is entitled —

(a) to appear in proceedings for an order under this section, whether or not that person is served with notice; and

(b) to appeal against any order made, whether or not that person appears in the proceedings.

(5) An order made under this section shall not take effect until the end of the period within which notice of an appeal may be given or, if before the end of that period notice of appeal is duly given, until the final determination or abandonment of the proceedings on appeal.

(6) Where there is more than one person interested in the article or thing, the Court may direct that the article or thing be sold, or otherwise dealt with, and the proceeds divided, and shall make any other order as the Court thinks just.

(7) If the Court decides that no order should be made under this section, the person in whose possession the article or thing was before being delivered up is entitled to its return.

Declaration as to non-infringement

42. A declaration that an act does not, or a proposed act would not, constitute an infringement of a registered design may be made by the Court in any proceedings between the person doing or proposing to do the act and the registered owner, notwithstanding that no assertion to the contrary has been made by the registered owner, if it is shown that —

(a) that person has applied in writing to the registered owner for a written acknowledgment to the effect of the declaration

claimed, and has furnished him with full particulars in writing of the act in question; and

- (b) the registered owner has refused or failed to give any such acknowledgment.

Certificate of contested validity of registration

5

43.—(1) If in any proceedings before the Court the validity of the registration of a design is contested, and the Court finds that the design is validly registered, the Court may certify the finding and the fact that the validity of the registration was so contested.

(2) If the Court gives such a certificate and in subsequent proceedings for infringement of the design or for revocation of the registration of the design —

- (a) the validity of the registration is again questioned; and
- (b) the registered owner obtains a final order or judgment in his favour,

15

the registered owner is entitled to his costs as between solicitor and client unless the Court directs otherwise.

(3) Subsection (2) does not extend to the costs of an appeal in any such proceedings.

Remedy for groundless threats of infringement proceedings

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44.—(1) Where a person (whether or not entitled to or interested in a registered design or an application for registration of a design) threatens any other person with proceedings for infringement of a registered design, any person aggrieved thereby may bring proceedings against the person making the threats for relief under this section.

(2) The relief which may be applied for are —

- (a) a declaration that the threats are unjustifiable;
- (b) an injunction against the continuance of the threats; and
- (c) damages in respect of any loss he has sustained by the threats,

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and the plaintiff is entitled to such relief unless —

- (i) the defendant proves that the acts in respect of which the proceedings were threatened constitute, or if done would constitute, an infringement of the design; and

35

(ii) the plaintiff fails to show that the registration of the design concerned is invalid.

(3) Proceedings may not be brought under this section as regards a threat to bring proceedings for an infringement alleged to consist of the making or importing of anything.

(4) For the purposes of this section, a notification that a design is registered does not of itself constitute a threat of proceedings within the meaning of this section.

(5) Nothing in this section shall render an advocate and solicitor liable to an action under this section in respect of an act done by him in his professional capacity on behalf of a client.

PART IV

GOVERNMENT USE OF REGISTERED DESIGNS

Government use of registered designs

15 **45.**—(1) Notwithstanding any of the provisions of this Act, the Government and any person authorised in writing by the Government may use any registered design for the services of the Government in accordance with section 46.

20 (2) The authority of the Government under subsection (1) may be —

- (a) given either before or after the registration of the design;
- (b) given either before or after the acts in respect of which the authority is given are done; and
- 25 (c) given to any person whether or not he is authorised, directly or indirectly, by the registered owner to use the design.

(3) Without prejudice to the generality of subsection (1), any use of the design for —

- (a) the supply to the government of any country or territory outside Singapore, in pursuance of any agreement or arrangement between the Government and the government of that country, of articles required —
- 30 (i) for the defence of that country; or

- (ii) for the defence of any other country whose government is party to any agreement or arrangement with the Government in respect of defence matters; or
- (b) the supply to the United Nations, or to the government of any country belonging to that organisation, of articles 5 required for any armed forces operating in pursuance of a resolution of that organisation or any organ of that organisation,

shall be deemed to be a use of the design for the services of the Government; and the power of the Government or a person 10 authorised by the Government to use the design shall include power —

- (A) to sell the articles to the government or to that organisation in pursuance of the agreement or arrangement; and
- (B) to sell to any person any articles made in the exercise of the 15 powers conferred by this section which are no longer required for the purpose for which they were made.

(4) Without prejudice to the generality of subsection (1), any use of a design to make an article, or any use of an article, for any purpose which appears to the Government necessary or expedient — 20

- (a) to avoid prejudice to the security or defence of Singapore;
- (b) to assist in the exercise of powers and the implementation of civil defence measures during a state of emergency or state of civil defence emergency under the Civil Defence Act (Cap. 42); or 25
- (c) for public non-commercial use,

shall be deemed to be a use of the design for the services of the Government.

(5) The purchaser of any articles sold in the exercise of powers conferred by subsection (1), and any person claiming through him, 30 shall have the power to deal with the articles as if the rights in the registered design were held on behalf of the Government.

(6) Notwithstanding any provision in any other written law, the reproduction or publication of any model or document in connection with any use of a design made by virtue of subsection (1) shall be 35 deemed not to constitute an infringement of any copyright subsisting

in the document by virtue of the Copyright Act (Cap. 63) or any right subsisting in a layout-design by virtue of the Layout-Designs of Integrated Circuits Act 1999 (Act 3 of 1999).

Terms of Government use

5 **46.**—(1) If and so far as the design has, before the date of its registration, been applied by or on behalf of the Government otherwise than in consequence of the communication of the design, directly or indirectly, by the registered owner or any person from whom he derives title, any use of the design by virtue of section 45
10 may be made free of any royalty or other payment to the registered owner.

(2) If and so far as the design has not been so applied, any use of the design made by virtue of section 45 at any time after the date of its registration, or in consequence of any communication referred to
15 in subsection (1), shall be made on such terms —

(a) as may be agreed upon, either before or after the use, between the Government and the registered owner; or

(b) in default of such agreement, as may be determined by the Court on a reference under section 48.

20 (3) Where a design has been made use of under this section, the Government, unless it appears to the Government that it would be contrary to the public interest to do so, shall inform the registered owner as soon as possible of the fact and furnish him with such information as to the use made of the design as he from time to time
25 reasonably requires.

Provisions of licence, etc., to be ineffective

47. In relation to any use of a registered design, or a design in respect of which an application for registration is pending, made for the services of the Government —

30 (a) by the Government or a person authorised by the Government under section 45; or

(b) by the registered owner or applicant for registration to the order of the Government,

the provisions of any licence, assignment or agreement made, whether before, on or after the date of commencement of this Act, between —

(i) the registered owner or applicant for registration or any person who derives title from him or from whom he derives title; and 5

(ii) a person other than the Government,

shall be of no effect so far as those provisions —

(A) restrict or regulate the use of the design or any model, document or information relating to it; or 10

(B) provide for the making of payments in respect of, or calculated by reference to, such use.

References of disputes to Court

48.—(1) Any dispute as to —

(a) the exercise by the Government, or a person authorised by the Government, of the powers conferred by section 45; 15

(b) the terms for the use of a design for the services of the Government; or

(c) the right of any person to receive any part of a payment made under section 46 (2), 20

may be referred to the Court by either party to the dispute.

(2) In any proceedings under this section to which the Government is a party, the Government may —

(a) if the registered owner is a party to the proceedings, apply for revocation of the registration of the design upon any ground upon which the registration may be revoked under this Act; or 25

(b) in any case, put in issue the validity of the registration of the design without applying for its revocation.

(3) In determining under this section any dispute between the Government and any person as to the terms for the use of a design for the services of the Government, the Court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly, from the Government in respect of the design. 30 35

(4) One of 2 or more registered owners of a registered design may, without the concurrence of the others, refer a dispute to the Court under this section, but shall not do so unless the others are made parties to the proceedings; but any of the others who has been made
 5 a defendant shall not be liable for any costs or expenses unless he takes part in the proceedings.

PART V

ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

10 *Division 1 — Registrar*

Registrar of Designs and other officers

49.—(1) There shall be a Registrar of Designs who shall have control of the Registry of Designs.

(2) There shall be one or more Deputy Registrars of Designs who
 15 shall, subject to the control of the Registrar, have all the powers and functions of the Registrar under this Act, other than the powers of the Registrar under section 50.

(3) There shall be one or more Assistant Registrars of Designs.

(4) The Registrar and all the other officers under this section shall
 20 be appointed by the Minister.

Delegation by Registrar

50.—(1) The Registrar may, in relation to a particular matter or class of matters, by writing under his hand, delegate all or any of his powers or functions under this Act (except this power of delegation)
 25 to an Assistant Registrar of Designs or any public officer so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

(2) A delegation under this section is revocable at will and no
 30 delegation shall prevent the exercise of a power or function by the Registrar or by any Deputy Registrar of Designs.

Registry of Designs

51. For the purposes of this Act, there shall be an office which shall be known as the Registry of Designs.

Seal of Registry

52. There shall be a seal of the Registry and impressions of the seal shall be judicially noticed. 5

Division 2 — Register

Register of Designs

53.—(1) The Registrar shall maintain a register to be known as the Register of Designs. 10

(2) There shall be entered in the Register in accordance with this Act and any rules made thereunder —

- (a) particulars of registered designs, including the dates of registration;
- (b) the names of registered owners; 15
- (c) particulars of transactions affecting rights in registered designs and applications for registration of designs; and
- (d) such other matters as the Registrar may think fit.

(3) No notice of any trust, whether express, implied or constructive, shall be entered in the Register, and the Registrar shall not be affected by any such notice. 20

(4) The Register may be kept in whole or in part using a computer.

(5) Any record of a particular or other matter made by using a computer for the purpose of keeping the Register is taken to be an entry in the Register. 25

Rectification of Register

54.—(1) The Court may, on the application of any person aggrieved, order the Register to be rectified by the making, or the variation or deletion, of any entry therein.

(2) In proceedings under this section, the Court may determine any question which may be necessary or expedient to decide in connection with the rectification of the Register.

(3) The Registrar shall, on receipt of the notice of an order of the
5 Court to rectify the Register, rectify the Register accordingly.

(4) A rectification of the Register under this section has effect as follows:

- (a) an entry made has effect from the date on which it should have been made;
- 10 (b) an entry varied has effect as if it had originally been made in its varied form; and
- (c) an entry deleted shall be deemed never to have had effect, unless, in any case, the Court directs otherwise.

Inspection of and extract from Register

15 **55.**—(1) The Register shall be available at the Registry for inspection by any person during the hours when the Registry is open for business upon payment of the prescribed fee.

(2) If the Register, or any part thereof, is kept by using a computer, subsection (1) is satisfied if a person who wants to inspect the
20 Register or that part thereof is given access to a computer terminal from which he can read on a screen, or obtain a printed copy of, the particulars or other matters recorded in the Register or that part thereof.

(3) Any person who applies for a certified copy of an entry in the
25 Register or a certified extract from the Register shall be entitled to obtain such copy or extract on payment of the prescribed fee.

(4) In relation to any portion of the Register kept otherwise than in documentary form, the right to a copy or an extract conferred by subsection (3) is a right to a copy or an extract in a form in which it
30 can be taken away.

(5) In this section, “certified copy” and “certified extract” mean a copy and an extract certified by the Registrar and sealed with the seal of the Registry.

Division 3 — Powers of Registrar

Costs in proceedings before Registrar

56.—(1) The Registrar may, in proceedings before him under this Act, by order award to any party such costs as he may consider reasonable and direct how and by what parties they are to be paid. 5

(2) The rules may provide for the taxation of the costs, or any part thereof, by the Registrar.

(3) A party desirous to obtain costs or to have the costs taxed shall apply to the Registrar in accordance with the rules.

(4) If a party is ordered to pay the costs of another party, the costs may be recovered in a court of competent jurisdiction as a debt due by the first party to the other party. 10

Correction of Register

57.—(1) The Registrar may, in accordance with the provisions of this section, correct any clerical error in the Register. 15

(2) A correction may be made under this section either upon a request in writing made by any person interested, or on the Registrar's own initiative.

(3) A request referred to in subsection (2) shall be made in the prescribed form and be accompanied by the prescribed fee. 20

(4) The Registrar shall not be obliged to correct on his own initiative any error not due to the default of the Registrar.

(5) Where the Registrar proposes to make any correction on his own initiative, he shall give notice of the proposal to every person who appears to him to be likely to be affected by the correction, and shall give him an opportunity to be heard before making the correction. 25

Powers of Registrar

58. The Registrar may, for the purposes of this Act —

- (a) summon witnesses; 30
- (b) receive evidence on oath, whether orally or otherwise; and

(c) require the production of documents or articles.

Disobedience to summons an offence

5 **59.**—(1) A person who has been summoned to appear as a witness before the Registrar shall not, without lawful excuse, fail to appear in obedience to the summons.

(2) A person who has been required by the Registrar to produce a document or an article shall not, without lawful excuse, fail to produce the document or article.

10 (3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

Refusal to give evidence an offence

15 **60.**—(1) A person who appears before the Registrar shall not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents or articles, or to answer questions, which he is required by the Registrar to produce or answer.

20 (2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding 3 months or to both.

Immunity of Registrar as regards official acts

61. Neither the Registrar nor any person acting under his authority —

25 (a) shall be taken to warrant the validity of the registration of any design registered under this Act or under any treaty, convention, arrangement or engagement to which Singapore is a party; or

30 (b) shall be subject to any liability by reason of, or in connection with, any examination required or authorised by this Act, or any such treaty, convention, arrangement or engagement, or any report or other proceedings consequent on such examination.

Appeal from decision or order of Registrar

62.—(1) Except as provided by rules made under this Act, an appeal lies to the Court from any decision or order of the Registrar under this Act.

(2) Any appeal under this Act which concerns an application for registration of a design shall be heard in camera unless the Court otherwise directs. 5

(3) In this section, “decision” includes any act of the Registrar done in the exercise of a discretion vested in him by or under this Act.

Exercise of discretionary power

10

63. Where any discretionary power is given to the Registrar by this Act or any rules made thereunder, the Registrar shall not exercise the power without giving to any person who may be adversely affected by his decision an opportunity to be heard.

Division 4 — Hours of Business of Registry

15

Hours of business and excluded days

64.—(1) The Minister may make rules to specify the hours at which the Registry shall be taken to be closed on any day for the purposes of the transaction by the public of a business under this Act or any rules made thereunder or of any class of such business, and may specify days as excluded days for any such purposes. 20

(2) Any business done under this Act or any rules made thereunder on any day after the hour so specified in relation to business of that class, or on a day which is an excluded day in relation to business of that class, shall be taken to have been done on the next following day not being an excluded day. 25

(3) Where the time for doing anything under this Act or any rules made thereunder expires on an excluded day, that time shall be extended to the next following day not being an excluded day.

PART VI
OFFENCES

Falsification of Register, etc.

65. Any person who —

- 5 (a) makes, or causes to be made, a false entry in the Register;
 (b) makes, or causes to be made, any thing false purporting to be
 a copy of an entry in the Register; or
 (c) produces or tenders or causes to be produced or tendered in
10 evidence any thing referred to in paragraph (b),
10 knowing or having reason to believe the entry or thing, as the case
 may be, is false shall be guilty of an offence and shall be liable on
 conviction to a fine not exceeding \$50,000 or to imprisonment for a
 term not exceeding 5 years or to both.

False representation that design is registered

- 15 **66.**—(1) Any person who falsely represents that a design applied
 to any article disposed of by him for value is registered in respect of
 that article shall be guilty of an offence and shall be liable on
 conviction to a fine not exceeding \$10,000 or to imprisonment for a
 term not exceeding 12 months or to both.

- 20 (2) For the purposes of subsection (1), a person shall be deemed to
 represent that a design applied to any article is registered in respect
 of that article, if there is stamped, engraved, or impressed on or
 otherwise applied to the article the word “registered” or anything
 expressing or implying that the design applied to the article has been
25 registered in respect of that article.

- (3) Any person who, after the right in a registered design has
 expired, marks any article to which the design has been applied with
 the word “registered”, or anything implying that there is a subsisting
 right in the design under this Act, or causes any such article to be so
30 marked, shall be guilty of an offence and shall be liable on conviction
 to a fine not exceeding \$10,000 or to imprisonment for a term not
 exceeding 12 months or to both.

Offences by partnership or body corporate

- 35 **67.**—(1) Proceedings for an offence under this Act alleged to have
 been committed by a partnership shall be brought against the

partnership in the name of the firm and not in that of the partners; but without prejudice to any liability of the partners under subsection (3).

(2) A fine imposed on a partnership on its conviction in such proceedings shall be paid out of the partnership assets.

(3) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of the offence and liable to be proceeded against and punished accordingly. 5

(4) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly. 10 15

PART VII

MISCELLANEOUS AND GENERAL PROVISIONS

Recognition of agents

68. Except as otherwise provided by rules made under this Act, any act required or authorised by this Act to be done by or to any person in connection with the registration of a design, or any procedure relating to a registered design or the registration of a design, may be done by or to an agent authorised by that person orally or in writing. 20

General powers of Court

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69. The Court, for the purpose of determining any question in the exercise of its original or appellate jurisdiction under this Act, may make any order or exercise any other power which the Registrar could have made or exercised for the purpose of determining that question. 30

Costs in proceedings before Court

70. In all proceedings before the Court under this Act, the Court may award to any party (including the Registrar) such costs as it may

consider reasonable, but the Registrar shall not be ordered to pay the costs of any other of the parties.

Certificate of Registrar

71. A certificate purporting to be under the hand of the Registrar
 5 as to any entry, matter or thing which he is authorised to make or do
 under this Act or any rules made thereunder shall be prima facie
 evidence of the entry having been made, and of contents thereof, and
 of the matter or thing having been done or not done.

General power to make rules

10 72.—(1) The Minister may make rules —

- (a) for any purpose for which rules are required or authorised to
be made under this Act;
- (b) for prescribing matters authorised or required by this Act to
be prescribed;
- 15 (c) for prescribing matters necessary or convenient to be
prescribed for carrying out or giving effect to this Act; and
- (d) generally for regulating the practice and procedure of any
proceedings or other matter before the Registrar.

(2) Without prejudice to the generality of subsection (1), rules
 20 made under this section may make provision —

- (a) prescribing the manner of filing of applications or other
documents;
- (b) requiring persons to make such statutory declarations as
may be prescribed in support of any application, notice or
25 request;
- (c) requiring and regulating the translation of documents and
the filing and authentication of any translation;
- (d) relating to the service of documents;
- (e) authorising the rectification of irregularities of procedure;
- 30 (f) prescribing the forms to be used for any purpose relating to
the registration of a design or any other proceedings or
matters before the Registrar;
- (g) requiring fees to be paid in connection with any proceedings
or matters before the Registrar or in connection with the
35 provision of any services by the Registry and prescribing
those fees;

- (h) empowering the Registrar, in such cases as may be prescribed, to require a party to any proceedings before the Registrar to give security for costs, in relation to those proceedings or to proceedings on appeal, and providing for the consequences if security is not given; 5
- (i) regulating the mode of giving evidence in any proceedings before the Registrar and empowering the Registrar to compel the attendance of witnesses and the discovery and production of documents;
- (j) prescribing time limits for doing anything required to be done in connection with any proceedings or matters under this Act or any rules made thereunder; 10
- (k) providing for the extension of any time limit so prescribed or specified by the Registrar, whether or not it has already expired; and 15
- (l) providing for the publication and sale of documents by the Registry and of information about such documents.

(3) Rules made under this section may make different provisions for different cases.

Rules relating to application for registration

20

73.—(1) Without prejudice to the generality of section 72, the Registrar may, for the purposes of section 11, make rules providing that an application for registration of a design shall or may contain —

- (a) a statement describing the representation of the design;
- (b) a statement describing the features of the design which the applicant considers to be new; 25
- (c) the classification of the articles to which the design is intended to be applied, according to any class or sub-class specified by the rules; and
- (d) a sample of the article to which the design reproduced in the representation is to be applied. 30

(2) Rules made under this section may provide for the manner in which the following are to be claimed in connection with an application for registration:

- (a) any claim that section 8, 9 or 10 applies in relation to the application; 35
- (b) any claim to a right of priority under section 12 or 13.

PART VIII

REPEAL, TRANSITIONAL PROVISIONS AND
RELATED AMENDMENTS TO COPYRIGHT ACT**Repeal**

5 **74.**—(1) The United Kingdom Designs (Protection) Act (Cap. 339) is repealed.

(2) A reference in any law or document to the United Kingdom Designs (Protection) Act shall, unless the context otherwise requires, be construed as a reference to this Act.

10 **Transitional provisions**

75.—(1) The provisions of the Schedule have effect with respect to transitional matters notwithstanding the provisions of this Act.

(2) The Minister may, by order published in the *Gazette*, amend the provisions of the Schedule.

15 **Related amendments to Copyright Act**

76.—(1) The Copyright Act (Cap. 63) is amended —

- (a) by deleting the words “more than 15 years” in the penultimate line of section 70 (1) and substituting the words “at any time”;
- 20 (b) by deleting the words “United Kingdom Designs (Protection) Act (Cap. 339)” in the 3rd and 4th lines of section 73 (2) (a) and substituting the words “Registered Designs Act 2000”;
- 25 (c) by deleting the word “proprietor” wherever it appears in section 73 (2) and substituting in each case the word “owner”;
- 30 (d) by deleting the words “under the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), or any Act amending or substituting for that Act” in the 2nd, 3rd and 4th lines of section 74 (1) and substituting the words “or deemed registered under the Registered Designs Act 2000”;
- (e) by deleting the words “under the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), or any Act amending or substituting for that Act” in the 3rd to 6th lines

- of section 74 (2) (c) and substituting the words “or, is deemed registered under the Registered Designs Act 2000”;
- (f) by deleting the words “25 years” wherever they appear in section 74 (3) and (4) and substituting in each case the words “15 years”;
- (g) by deleting the words “the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), or any Act amending or substituting for that Act, by rules made under that Act or such other Act” in the 4th to 7th lines of section 74 (5) and substituting the words “the Registered Designs Act 2000 or the Registered Designs Act 1949 of the United Kingdom (as the case may be), by rules made under the applicable Act”;
- (h) by deleting paragraphs (a) and (b) of section 74 (6) and substituting the following paragraphs:
- “(a) before the commencement of those proceedings —
- (i) an application for the registration of the design in respect of those articles under the Registered Designs Act 2000; or
- (ii) an application for the registration of the design in respect of those articles under the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), being an application made before the date of commencement of the Registered Designs Act 2000,
- has been refused;
- (b) the reason or one of the reasons stated for the refusal was that the design was excluded from such registration by rules made under the Registered Designs Act 2000 or the Registered Designs Act 1949 of the United Kingdom (as the case may be); and”;
- (i) by deleting the words “under the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), or any Act amending or substituting for that Act” in the 1st, 2nd and 3rd lines of paragraph 1 (b) of the Schedule and substituting the words “or is deemed registered under the Registered Designs Act 2000”;

(j) by deleting sub-paragraph (c) of paragraph 1 of the Schedule and substituting the following sub-paragraph:

“(c) it is proved or admitted in the proceedings that the person who is the registered owner of the design was not the owner thereof for the purposes of that Act and was registered as the owner under that Act or as the proprietor under the Registered Designs Act 1949 of the United Kingdom (as the case may be) without the knowledge of the owner of the copyright in the artistic work.”;

(k) by inserting, immediately after the word “registration” in the 2nd line of paragraph 2 of the Schedule, the words “under the Registered Designs Act 2000 or the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88) (as the case may be)”;

(l) by deleting paragraph 3 of the Schedule and substituting the following paragraph:

“3. Notwithstanding anything in paragraph 2, if in the proceedings it is proved or admitted that any act to which the proceedings relate —

(a) was done in pursuance of an assignment or licence made or granted by the registered owner of the design; and

(b) was so done in good faith in reliance upon the registration, and without notice of any proceedings for the cancellation or revocation of the registration (as the case may be) or for rectifying the entry in the relevant register of designs relating thereto,

section 74 (1) of this Act shall apply in relation to that act for the purposes of the first-mentioned proceedings.”.

(2) The Minister may by rules make such transitional provisions as he may consider necessary or expedient in relation to the amendments under subsection (1).

THE SCHEDULE

TRANSITIONAL PROVISIONS

Preliminary

1.—(1) In this Schedule, unless the context otherwise requires —

“appointed date” means the date of commencement of this Act;

“initial period of registration”, in relation to a relevant design, means the initial period of its registration referred to in paragraph 2 (3);

“relevant design” means a design that is deemed to be a registered design for the purposes of this Act by virtue of paragraph 2 (1);

THE SCHEDULE — *continued*

“UK Act” means the Registered Designs Act 1949 of the United Kingdom (U.K. 1949, c.88), as amended and as applied to Singapore by the United Kingdom Designs (Protection) Act (Cap. 339);

“UK Register” means the register of designs maintained under section 17 of the UK Act. 5

(2) Unless the context otherwise requires, any word or expression used in this Schedule and defined in the UK Act has the same meaning as in that Act.

(3) For the purposes of this Schedule and the avoidance of doubt, the date of registration of a design under the UK Act shall be determined in accordance with section 3 (5) of the UK Act. 10

Relevant Designs

2.—(1) A design registered under the UK Act before the appointed date shall be deemed to be a registered design for the purposes of this Act in respect of the article for which it is registered under the UK Act if the registration has not expired or been cancelled on the appointed date. 15

(2) For the avoidance of doubt, the reference in sub-paragraph (1) to a design registered under the UK Act before the appointed date includes a reference to a design registered under the UK Act the date of registration of which is deemed, under section 3 (5) of the UK Act, to be a date before the appointed date. 20

(3) The registration of a design that is deemed to be a registered design under sub-paragraph (1) shall be for an initial period that ends on the earlier of —

- (a) the date of expiry of the period for which the right in the design is subsisting on the appointed date, if the period may not be extended under section 8 (2) of the UK Act; or 25
- (b) the date the period falls due for extension, if the period may be extended under that section.

Extension of Registration

3.—(1) The period of registration of a relevant design may be extended for additional periods of 5 years at a time, but the total period of registration may not exceed 25 years from the date of its registration under the UK Act. 30

(2) If the registered proprietor of the design desires to extend the period of registration for a further period of 5 years from the expiry of its initial period of registration, he shall submit an application to the Registrar in accordance with sub-paragraph (3). 35

(3) An application referred to in sub-paragraph (2) shall be made before the expiry of the initial period of its registration, and shall be accompanied by —

- (a) a representation of the design as registered under the UK Act;

THE SCHEDULE — *continued*

- (b) a certified extract confirming registration of the design issued by the Registrar of the United Kingdom Designs Registry;
 - 5 (c) such particulars of transactions affecting rights in the design for the time being entered in the UK Register as the Registrar may require;
 - (d) such other information, documents or matters as may be required by the rules; and
 - (e) the prescribed renewal fee.
- 10 (4) Section 21 (5) shall, with the necessary modifications, apply in relation to an application referred to in sub-paragraph (2), except that no late fee referred to in section 21 (5) is payable for an application made within 6 months after the expiry of the initial period.
- (5) After the grant of an application referred to in sub-paragraph (2), the Registrar shall enter in the Register —
- 15 (a) particulars of the relevant design, including the date of its registration under the UK Act;
 - (b) the name of the registered proprietor of the relevant design for the time being entered in the UK Register; and
 - (c) such other matters as the Registrar may think fit.
- 20 (6) Section 21 shall, with the necessary modifications, apply in relation to any further extension of the period of registration of a relevant design.
- (7) Rules may be made to provide for —
- 25 (a) the form and manner of filing of an application for the extension of the period of registration of a relevant design, including the documents and information to be furnished by an applicant in support of his application;
 - (b) the publication of any such renewal;
 - 30 (c) the right to inspect documents filed in support of an application for the extension of the period of registration of a relevant design, or to request for information relating to such application or the design concerned, and the conditions for the exercise of such a right, including any fee for the inspection or information.

Application of Act to Relevant Designs

4. For the purposes of this Act —
- (a) the registered owner of a relevant design —
 - 35 (i) during the initial period of registration of the design, shall be the person whose name is for the time being entered in the UK Register as the registered proprietor of the design; or
 - (ii) after the expiry of that period and the grant of an application referred to in paragraph 3 (2) in relation to the design, shall be

THE SCHEDULE — *continued*

the person whose name is for the time being entered in the Register as the owner of the design; and

- (b) the date of registration of a relevant design shall be the date of its registration under the UK Act.

5

5. A reference in section 5 (2) to a design registered in pursuance of a prior application shall be construed as including a reference to a relevant design that is registered under the UK Act in pursuance of a prior application under that Act.

6.—(1) An application under section 23, 26 or 27 may be made in relation to a relevant design only after the expiry of the initial period of registration of the design and the grant of an application referred to in paragraph 3 (2) in relation to the design.

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(2) Any cancellation of the registration under the UK Act of a relevant design pursuant to section 11 of that Act, that is carried out —

- (a) during the initial period of registration of the design; or
(b) after that period but pursuant to a request or application made during that period,

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shall for the purposes of this Act be treated as a surrender or revocation (as the case may be) of the registration under this Act and shall have the same force and effect as if it had been made under this Act.

20

7.—(1) Sections 28, 29 and 53 (2) shall not apply in relation to a relevant design.

(2) After the renewal of the registration of a relevant design under paragraph 3 (2) and upon the filing of a written request by any person in the prescribed manner and the payment of the prescribed fee, the Registrar shall —

25

- (a) give the person making the request such information; and
(b) permit him to inspect such documents,

relating to the application for renewal of the design concerned (including any representation or sample of the design) as may be specified in the request, subject, however, to such conditions as may be prescribed.

30

(3) Rules may be made empowering the Registrar to refuse any request in respect of such information or documents as may be prescribed.

8.—(1) An application under section 34 for the registration of the particulars of a registrable transaction in relation to a relevant design may be made only after the expiry of the initial period of registration of the design and the grant of an application referred to in paragraph 3 (2) in relation to the design.

35

(2) An application for registration under section 19 of the UK Act in respect of a registrable transaction in relation to a relevant design, being an application made at any time before the end of the initial period of registration of the design,

THE SCHEDULE — *continued*

shall, for the purposes of section 34, be treated as an application under that section for the registration of the particulars of that transaction and shall have the same force and effect as such an application.

- 5 (3) For the purposes of this paragraph, “registrable transaction” has the meaning given to that expression in section 34 (2).

- 9.—(1) An application under section 54 for the rectification of the Register in relation to a relevant design may be made only after the expiry of the initial period of registration of the design and the grant of an application referred to in paragraph 10 3 (2) in relation to the design.

- (2) Where, pursuant to an application made under section 20 of the UK Act before the expiry of the initial period of registration of a relevant design, any rectification is ordered to be made to the UK Register in respect of the design, the Registrar shall, either on his own initiative or upon application by an 15 interested party, make a corresponding rectification of the Register, and section 54 (4) shall have effect as if the rectification were a rectification made pursuant to section 54 (3).

EXPLANATORY STATEMENT

This Bill seeks to establish a system for the registration of industrial designs in Singapore.

Clause 1 relates to the short title and commencement.

Clause 2 defines certain terms used in the Bill. A design is defined as features of shape, configuration, pattern or ornament applied to an article by an industrial process, but does not include a method or principle of construction; or features of shape or configuration of an article that are dictated solely by the function which the article has to perform, that are dependent upon the appearance of another article of which the first article is intended to form an integral part, or that enable that article to be connected to another article so that either article may perform its function.

Clause 3 provides that the Bill binds the Government.

Clause 4 deals with the ownership of a design. The designer of a design is treated as the owner of the design. However, where the design is commissioned, or created by an employee in the course of his employment, the person commissioning or the employer (as the case may be) shall be treated as the owner.

Clause 5 sets out the rule that only new designs may be registered. A design is not new if it is the same or substantially the same as a design that has been registered or published in respect of the same or any other article.

Clauses 6 and 7 lay down certain designs that may not be registered. These include a design that is contrary to public order or morality, a computer program and a layout-design. The Minister may also make rules to exclude from registration designs for articles of a primarily literary or artistic character.

Clause 8 provides for certain situations where the novelty of a design is not destroyed even though it has been disclosed. These include a disclosure to a person in circumstances where it would be a breach of good faith for that person to use or publish the design, a disclosure that had been made in breach of good faith by a person other than the owner of the design, an acceptance of a first and confidential order for goods bearing a textile design, a disclosure to a Government department to consider the merits of the design, and a display at an official international exhibition with the owner's consent.

Clause 9 provides that the novelty of a design that corresponds to an artistic work is not destroyed by any prior use of the artistic work, except where the prior use consisted of any commercial dealing in articles to which the design, or a closely similar design, had been applied industrially.

Clause 10 provides for 2 situations where an application for registration of a design shall not be refused, and the registration of a design shall not be revoked, despite the prior registration of the same design or a closely similar design. The situations are —

- (a) where the application is filed by the registered owner in respect of any other article; and
- (b) where the applicant becomes the owner of the prior registration.

Clause 11 provides that an application for registration of a design shall be made in the prescribed manner and be accompanied by the prescribed fee.

Clause 12 provides that a person who has applied for registration of a design in a country that is a party to the Paris Convention or a member of the World Trade Organisation may claim priority from the date of that application if he applies for registration under the Bill within 6 months of that application.

Clause 13 enables provisions similar to clause 12 or otherwise to be made in relation to a country or territory with which Singapore has an arrangement for the reciprocal protection of registered designs.

Clause 14 provides for the manner in which an applicant may withdraw his application for registration and the effect of such withdrawal.

Clause 15 provides for the manner in which an application may be amended. An application may not be amended if the effect of the amendment is to increase the scope of the application by including matter not disclosed in the application as filed.

Clause 16 provides that the Registrar is to examine an application to determine if it complies with the formal requirements. The Registrar is to notify the applicant

of any non-compliance. The application is treated as withdrawn upon any failure to correct the non-compliance. The clause also provides for the manner in which a withdrawn application may be reinstated.

Clause 17 provides that the Registrar may refuse an application if it does not satisfy the formal requirements, if the design is not new or it is not registrable for any other reason.

Clause 18 provides that where the Registrar is satisfied that an application satisfies the formal requirements, he shall register the design, enter the name of the applicant as the owner, issue a certificate of registration, and publish in the *Gazette* a notice of registration and a representation of the design.

Clause 19 clarifies that the Registrar is only required to examine an application to determine if it satisfies the formal requirements.

Clause 20 provides that a design when registered is considered to be registered as of the date of the application or, if the applicant is entitled to a right of priority under clause 12 or 13, from the date the earlier application is filed in the foreign country concerned.

Clause 21 provides that the registration of a design remains in force for an initial period of 5 years. It can be extended for up to 2 periods of 5 years each.

Clause 22 provides for 2 situations in which the maximum life of the registration of a design may be shorter than that provided in clause 21 —

- (a) where the design is registered by virtue of clause 9 (1), in which case the registration must expire on the date of expiry of the copyright in the artistic work concerned if the latter date is earlier; and
- (b) where the design is registered by virtue of clause 10 (1), in which case the registration must expire on the date of expiry of the registration of the original registered design.

Clause 23 provides that after a design has been registered, a person claiming an interest in it may apply to the Court to determine the question of who is the true owner, whether the design should have been registered in the name of the registered owner, or whether any right in the design should have been transferred or granted to another person. The Court may make such order as it considers appropriate. These include an order directing that the name of the applicant be entered in the Register as the owner, and an order that the transaction giving rise to the right in the design be registered.

Clause 24 provides that where an order made under clause 23 directs that a registered design be transferred, any licence already granted shall continue in force and be treated as having been granted by the new owner. Where the order directs that a registered design be transferred on the ground that the design was registered in the name of a person not entitled to be so registered, any such licence shall lapse upon the registration of the new owner. The old owner or a licensee thereof may under certain circumstances request the new owner for a non-exclusive licence to

use or to continue using the design. The Court may upon application order the grant of such a licence.

Clause 25 provides that a licence granted by order of Court under clause 23 or 24 shall have effect as if it were a deed executed by the registered owner and all other necessary parties.

Clause 26 provides that the registration of a design may be surrendered in respect of all or any of the articles in respect of which it is registered.

Clause 27 provides that an interested person may apply either to the Registrar or to the Court for the revocation of the registration of a design on any of the following grounds:

- (a) the design was not new at the date of its registration;
- (b) any other ground on which the Registrar could have refused registration;
- (c) the right in the design has expired in accordance with clause 22 (1).

Clause 28 provides for the right of any person to apply to the Registrar for information, or permission to inspect documents, relating to an application for registration of a design.

Clause 29 provides that where a design to which an application for registration relates appears to the Registrar to belong to a class notified to him by the Minister as being relevant for defence purposes, the Registrar may give directions to prohibit or restrict the publication of information on the design or the communication of any specified information. The application will be held in abeyance until the directions are revoked. The Registrar shall then notify the Minister. The directions of the Registrar may be revoked if the Minister considers that the publication of the design is not prejudicial to the defence of Singapore.

Clause 30 sets out the exclusive rights of a registered owner of a registered design as including —

- (a) the making, or importing, for a commercial purpose; or
- (b) the commercial dealing in,

any article to which has been applied the design or a design not substantially different from the design. The clause also sets out the manner in which the right in the design may be infringed.

Clause 31 provides for the right of a person to do or continue to do an act in relation to a registered design if he had in good faith done the act, or made preparations to do the act, before the date of registration of the design.

Clause 32 provides that a registered design or any right in it is personal property which may be assigned or transmitted in the same way as other personal property, and may be vested by assent of personal representatives.

Clause 33 provides that a co-owner of a registered design has (subject to agreement) the right to use the design, but must obtain the consent of all other co-owners if he wishes to grant a licence for the use of the design or assign any interest in it.

Clause 34 deals with registration of particulars of transactions affecting a registered design, and provides for various disabilities until the particulars of a registrable transaction are registered.

Clause 35 provides that clauses 32, 33 and 34 apply to an application for the registration of a design in the same way as they apply to a registered design.

Clause 36 provides that the registered owner of a registered design may take action against a person who infringes his right in the design, and be granted an injunction and either damages or an account of profits.

Clause 37 provides for the right of a registered co-owner of a registered design to bring infringement proceedings.

Clause 38 provides for the right of an exclusive licensee to bring infringement proceedings.

Clause 39 provides that, in any infringement proceedings, no award of damages or account of profits shall be ordered against a defendant who proved that, at the date of the infringement, he had not been aware and had no reasonable grounds for believing that the design was registered.

Clause 40 provides that, in any infringement proceedings, the Court may order the defendant to deliver up infringing articles or anything predominantly used for making infringing articles.

Clause 41 provides that the Court may make a further order for any thing delivered up under clause 40 to be forfeited or destroyed.

Clause 42 provides for the right of the Court to make a declaration that an act or proposed act does not infringe the right in a registered design.

Clause 43 provides for the right of the Court to certify any finding that a design is validly registered. If the validity of registration is contested in any subsequent infringement or revocation proceedings which was decided in the registered owner's favour, he can obtain costs calculated as between solicitor and client.

Clause 44 provides that where a person threatens another with infringement proceedings, any person aggrieved may sue and be awarded a declaration that the threats are groundless, an injunction and damages.

Clause 45 gives the Government and anyone authorised by the Government the right to use a registered design for the services of the Government. The clause sets out certain uses of a design which are deemed to constitute uses for the services of the Government.

Clause 46 provides that, where the design has already been independently used by or on behalf of the Government before the date of its registration (as determined in accordance with clause 20), compensation need not be given for the Government use. Otherwise, the Government use must be subject to such terms as may be agreed between the Government and the registered owner. The registered owner shall also be informed as soon as possible of such use unless it appears to the Government that it would be contrary to public interest to do so.

Clause 47 provides that the provisions of any licence, assignment or agreement restricting or regulating the use of a registered design, or providing for payment of such use, shall be ineffective as against Government use of the design.

Clause 48 provides for the right of the Court to hear any dispute relating to Government use of a registered design.

Clause 49 establishes the positions of the Registrar of Designs, Deputy Registrars of Designs and Assistant Registrars of Designs.

Clause 50 empowers the Registrar to delegate his powers and functions, other than the power of delegation.

Clause 51 establishes the Registry of Designs.

Clause 52 provides for there to be a seal of the Registry.

Clause 53 provides for the maintenance of a Register of Designs (referred to as the Register) and for its contents.

Clause 54 provides for the right of an aggrieved person to apply to the Court for an order to rectify the Register.

Clause 55 relates to the inspection of the Register and the right to obtain an extract from it.

Clause 56 permits the Registrar to award costs in any proceedings before him.

Clause 57 permits the Registrar to correct clerical errors in the Register either on application or on his own initiative.

Clause 58 permits the Registrar to summon witnesses, receive evidence on oath and require the production of documents or articles.

Clause 59 makes it an offence for a person to disobey a summons to appear before the Registrar or a requirement of the Registrar to produce a document or an article.

Clause 60 makes it an offence for a person to refuse to be sworn or to make an affirmation, or to produce documents or articles or give answers as required by the Registrar.

Clause 61 provides that the Registrar is not taken to warrant the validity of the registration of a design registered under the Bill or under any agreement to which

Singapore is a party, and is not subject to any liability for an examination or consequential report or proceedings.

Clause 62 provides that, except as provided by rules, an appeal lies to the Court from any decision or order of the Registrar.

Clause 63 requires the Registrar to give any person who is adversely affected by the Registrar's exercise of a discretionary power a right to be heard.

Clause 64 deals with the hours of business of the Registry.

Clause 65 makes it an offence for any person to make a false entry in the Register, to make any thing false purporting to be a copy of an entry in the Register or to produce any such thing as evidence.

Clause 66 makes it an offence for any person to falsely represent that a design applied to an article disposed of by him for value is registered.

Clause 67 relates to offences committed by partnerships and bodies corporate.

Clause 68 provides that any act required or authorised under the Bill to be done by or to a person may be done by or to an agent authorised by that person.

Clause 69 empowers the Court, in determining any question in proceedings under the Bill, to make any order or exercise any power which the Registrar could have made or exercised in determining that question.

Clause 70 permits the Court to award costs in any proceedings before it under the Bill.

Clause 71 provides that a certificate of the Registrar as regards certain matters shall be prima facie evidence of those matters.

Clauses 72 and 73 provide for a rule making power.

Clause 74 repeals the United Kingdom Designs (Protection) Act (Cap. 339).

Clause 75 introduces the Schedule which contains transitional provisions. The transitional provisions provide that designs registered under the UK Designs Act 1949 (U.K. 1949, c.88) before the date of commencement of the Bill are deemed registered designs under the Bill if the registration has not expired or been cancelled by that date.

Clause 76 amends the Copyright Act (Cap. 63) for the following main purposes:

- (a) to amend section 70 in order to remove the exclusive right of the owner of the copyright in an artistic work in relation to the making of spare parts after the artistic work has been industrially applied;
- (b) to amend all references to "25 years" in section 74 (3) and (4) to read as "15 years" in line with the maximum term of protection for registered designs under the Bill; and

- (c) to make other amendments to sections 73 and 74 and the Schedule that are consequential up to the enactment of this Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.

TABLE OF DERIVATIONS

<i>Registered Designs Bill 2000</i>		<i>Derivations</i>			
<i>Section Heading</i>	<i>Clause</i>	<i>U.K. Registered Designs Act 1949 (c.88)</i>	<i>H.K. Registered Designs Ordinance (Cap. 522)</i>	<i>Trade Marks Act (Cap. 332)</i>	<i>Others</i>
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	“article”	s44	—	—	—
	“Convention country”	—	—	s2	—
	“corresponding design”	—	—	—	Copyright Act (Cap. 63) s73
	“design”	s1	—	—	—
	“exclusive licence”	—	—	—	Patents Act (Cap. 221) s2
	“Paris Convention”	—	—	s2	—
	“registered owner”	s44	—	—	—
	“set of articles”	s44	—	—	—
	2 (2)	—	—	—	—
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Provisions as to artistic works	9	s6	—	—	—
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Determination of rights after registration	23	—	s41	—	Patents Act (Cap. 221) s47
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