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## Industrial Design Protection Act

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RT I 1997, 87, 1466  
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Amended by the following acts

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| 25.11.1998                               | RT I 1998, 108, 1783  | 16.03.1999  |
| 21.02.2001                               | RT I 2001, 27, 151    | 20.04.2001  |
| 06.06.2001                               | RT I 2001, 56, 335    | 01.09.2001  |
| 14.11.2001                               | RT I 2001, 93, 565    | 01.02.2002  |
| 05.12.2001                               | RT I 2001, 100, 644   | Pursuant to § 11  |
| Complete text in paper publication of RT | RT I 2002, 9, 45      |   |
| 05.06.2002                               | RT I 2002, 53, 336    | 01.07.2002  |
| 19.06.2002                               | RT I 2002, 63, 387    | 01.09.2002  |
| 17.12.2003                               | RT I 2003, 88, 594    | 08.01.2004  |
| 10.03.2004                               | RT I 2004, 20, 141    | 01.05.2004  |
| 15.06.2005                               | RT I 2005, 39, 308    | 01.01.2006  |
| 07.12.2006                               | RT I 2006, 58, 439    | 01.01.2007  |
| 24.01.2007                               | RT I 2007, 13, 69     | 15.03.2007  |
| 22.11.2007                               | RT II 2008, 1, 1      | 18.04.2008  |
| 10.12.2008                               | RT I 2008, 59, 330    | 01.01.2009  |
| 26.11.2009                               | RT I 2009, 62, 405    | 01.01.2010  |
| 22.04.2010                               | RT I 2010, 22, 108    | 01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24 - 26). |
| 07.12.2011                               | RT I, 28.12.2011, 1   | 01.01.2012  |
| 19.06.2014                               | RT I, 12.07.2014, 1   | 01.01.2015  |
| 19.06.2014                               | RT I, 29.06.2014, 109 | 01.07.2014, titles of ministers are replaced pursuant to subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.   |
| 20.02.2019                               | RT I, 19.03.2019, 4   | 29.03.2019, in part 01.04.2019  |
| 20.02.2019                               | RT I, 19.03.2019, 5   | 01.04.2019  |

### Part I

# GENERAL PART

## Chapter 1 GENERAL PROVISIONS

### § 1. Scope of application of Act

(1) This Act regulates the legal protection in the Republic of Estonia of industrial designs created in the field of industrial design and, in the cases provided for in this Act, the rights and obligations related to industrial designs unregistered or registered by the European Union Intellectual Property Office (hereinafter Community designs) on the basis of Council Regulation (EC) No 6/2002 on Community designs (Official Journal L 003, 05.01.2002 pp. 1–24) (hereinafter Regulation on Community Designs).

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) The minister responsible for the area shall issue a regulation for the implementation of this Act in matters where the competence of a Member State for taking decisions arises from corresponding legal acts of the European Union or from this Act (hereinafter regulation on industrial designs).

[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

### § 2. Legal acts providing legal protection of industrial designs

(1) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(3) The legal protection of industrial designs provided for in this Act is independent of the protection provided for in the Copyright Act.

### § 3. Equality of rights and obligations of natural and legal persons of the Republic of Estonia and of foreign states

The rights and obligations prescribed in this Act and other legal acts regulating the legal protection of industrial designs apply equally to natural and legal persons of the Republic of Estonia and of foreign states (hereinafter persons).

## Chapter 2 BASES FOR LEGAL PROTECTION OF INDUSTRIAL DESIGNS

### § 4. Definition of industrial design

(1) An industrial design is the two-dimensional or three-dimensional design of a product.

(2) For the purposes of this Act, a design means the set of features of a product which, either separately or in combination, form the shape, configuration, ornamentation, colours, texture and material of the product.

(3) For the purposes of this Act, a product means a single product, as well as such spare parts and components of a product which are visible upon the normal use of the product from the outside when assembled in the product. The normal use of a product does not include the service, maintenance or repair of the product.

(4) Industrial designs may have variants. The variants of an industrial design are such modifications of the industrial design which produce a similar overall impression on persons skilled in the art.

(5) A set of industrial designs is a logical group of industrial designs which pursuant to the Locarno Agreement Establishing an International Classification for Industrial Designs belong to the same class and are designed in the same manner.

(6) For the purposes of this Act, a set of industrial designs is equivalent to one industrial design.

### § 5. Provision of legal protection to industrial design

(1) Legal protection is granted to industrial designs which are new, have an individual character and may be used for manufacturing industrial or handicraft products.

(2) Industrial designs acquire legal protection by registration in the register of industrial designs (hereinafter also register) pursuant to the procedure provided for in this Act.

(3) The representation of an industrial design which is entered in the register is the basis for determination of the scope of legal protection of the industrial design. The industrial design represented by the representation is deemed to have acquired legal protection. Legal protection also extends to any industrial design which is confusingly similar to the industrial design represented by the representation.

(3<sup>1</sup>) In assessing the scope of legal protection of an industrial design in respect of a product manufactured according to the industrial design, the requirements in force at the time of development of the design shall be taken into consideration.

(4) A set of industrial designs acquires legal protection as a whole. The industrial designs forming the set do not acquire legal protection independently.

(5) Each variant of an industrial design acquires legal protection independently.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

## **§ 6. Novelty of industrial design**

(1) An industrial design is deemed to be new if no identical or confusingly similar industrial design is disclosed in the Republic of Estonia or any foreign state prior to the filing date of the registration application for the industrial design (hereinafter registration application) or, if priority is claimed, prior to the date of priority. In determining the novelty of an industrial design, identical or confusingly similar registered industrial designs are also taken into consideration after they are disclosed if such industrial designs have an earlier filing date of the registration application or earlier date of priority.

(2) [Repealed]

## **§ 7. Individual character of industrial design**

(1) An industrial design has an individual character if the overall impression it produces on persons skilled in the art differs from the overall impression produced on such persons by industrial designs which are disclosed in the Republic of Estonia or in a foreign state prior to the filing date of the registration application or, if priority is claimed, prior to the date of priority.

(2) In proving an individual character in respect of a product manufactured according to an industrial design, the precepts in force at the time of manufacture are taken into consideration.

## **§ 8. Disclosure of industrial design**

(1) An industrial design is deemed to be disclosed if it is published in any publication or made otherwise available to a large number of people.

(2) Disclosure does not include making an industrial design available to other persons as confidential information.

(3) In determining the novelty and individual character of an industrial design no information is taken into consideration which is disclosed within twelve months before the filing date of the registration application or, if priority is claimed, before the date of priority, by a person who is entitled to apply for the registration of the industrial design, or by any other person who has received this information from such person against or according to the will of the person.

## **§ 9. Industrial designs which are not subject to protection**

Legal protection is not granted to an industrial design which:

- 1) derives solely from the technical function of the product, unless the industrial design allows specific assembly or connection of products within a modular system or parts of products;
- 2) is contrary to good practice;
- 3) is unstable;
- 4) is a layout design of integrated circuits;
- 5) is a spare part or component which is not visible upon normal use when assembled in the product.

## **§ 10. Special cases of legal protection**

(1) No legal protection is granted to industrial designs which contain the name of the Republic of Estonia or an administrative unit thereof, the current or historical name of an association or foundation registered in Estonia, or its abbreviation, flag, armorial bearings, emblem, seal, honorary distinction, symbol or an element of the symbol, unless a competent authority or official has given written consent thereto.

(2) Without the written consent of a competent authority or official, no legal protection is granted to industrial designs which contain the following:

- 1) the armorial bearings, flag or any other state emblem of a foreign state, official signs and hallmarks indicating control and warranty which are protected pursuant to Article 6 *ter* of the Paris Convention for the Protection of Industrial Property, or any imitation of these signs;
- 2) the name or abbreviation of an intergovernmental organisation, its armorial bearings, flag or any other emblem which is protected pursuant to Article 6 *ter* of the Paris Convention for the Protection of Industrial Property, or any imitation of these signs;

(3) Without the written consent of the entitled persons, no legal protection is granted to an industrial design which contains:

- 1) the surname, pseudonym or portrait of a well-known person;
- 2) the name or part of the name of another legal person;
- 3) the representation or name of an architectural site;
- 4) a well-known trade mark or trade mark which is registered or filed for registration in the name of another person;
- 5) a hallmark indicating control and warranty;
- 6) the name of a registered proprietary medicinal product.

## **§ 11. Priority**

(1) Priority is the privilege of the person who files the first registration application to apply for legal protection of an industrial design. The first registration application is the first registration application filed for the industrial design, regardless of the country where the filing takes place. The filing date of the first registration application is deemed to be the date of priority. Commencing from the date of priority, the person who files the first application has privilege in relation to persons who file later registration applications for an identical or confusingly similar industrial design.

(2) If a registration application is filed within six months after the filing date of the first application, priority may be established:

- 1) in a country which has acceded to the Paris Convention for the Protection of Industrial Property on the basis of the filing date of the first registration application (Convention priority);
- 2) in a country which has not acceded to the Paris Convention for the Protection of Industrial Property on the basis of the filing date of the first registration application if such country guarantees equivalent conditions to persons who file first registration applications in the Republic of Estonia;

(3) Priority may be established on the basis of a subsequent registration application which is filed for the registration of an identical industrial design after the first registration application if the first registration application is, at the filing date of the subsequent application, withdrawn, deemed to be withdrawn, or if registration thereof has been refused and the registration application has not been the basis for claiming priority.

(4) Priority may be established on the basis of several first registration applications. If several first registration applications have been filed earlier, the six months time limit provided for in subsection (2) of this section shall be calculated from the earliest date of priority.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

## **Chapter 3**

### **AUTHOR AND OWNER OF INDUSTRIAL DESIGN**

#### **§ 12. Author of industrial design**

(1) The author of an industrial design is the natural person who created the industrial design through his or her creative activities.

(2) If an industrial design is created by several natural persons through joint creative activities, such persons are joint authors.

(3) In the case of joint authorship, all rights are exercised by the authors jointly, unless they agree otherwise in writing.

(4) Authorship is inalienable and unspecified in term.

#### **§ 13. Rights of author of industrial design**

(1) The author of an industrial design has the following personal moral rights:

- 1) the right to request the disclosure of the author's name as the author;
- 2) the right to prohibit the disclosure of the author's name as the author;
- 3) the right to revoke at any time the prohibition on disclosure of the author's name.

(2) The personal moral rights of the author of an industrial design are inseparable from the person of the author and are not transferable during the lifetime of the author.

(3) The proprietary right of the author of an industrial design is the right to a fair portion of the profit received from the industrial design. Authors have the right to transfer such right and such right also transfers to successors.

#### **§ 14. Right to apply for registration of industrial design**

(1) The right to apply for the registration of an industrial design and to become the owner of the industrial design is vested in the author or person who has acquired the right to apply for the registration of the industrial design from the author or by way of transfer of such right.

(2) The right to apply for the registration and ownership of an industrial design created in the performance of duties of employment or contractual obligations is vested in the employer or the person who orders, unless the duties of employment or the contract prescribe otherwise.

(3) Several persons may apply for the registration of an industrial design jointly.

(4) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

#### **§ 15. Owner of industrial design**

The owner of an industrial design is the person who has full legal control (exclusive right) over a registered industrial design and is entered in the register as the owner of the industrial design.

#### **§ 16. Rights of owner of industrial design**

(1) The owner of an industrial design has the exclusive right to manufacture products according to the industrial design, and to distribute, sell, offer for sale, or import, export or store for the aforesaid purposes products which are manufactured according to the registered industrial design.

(2) The owner of an industrial design has the right to prohibit other persons from manufacturing without authorisation products according to an identical or confusingly similar industrial design and from distributing, selling, offering for sale or importing, exporting or storage for the aforementioned purposes products which are manufactured according to the registered industrial design.

(3) The owner of an industrial design has the right to demand from persons who violate the rights provided for in subsection (1) of this section termination of the violation of such rights, elimination of the consequences of the violation and compensation for damage caused by the violation.

(4) The rights of the owner of an industrial design may only be restricted in the cases and pursuant to the procedure prescribed by law.

#### **§ 17. Acts which do not constitute violation of rights of owner of industrial design**

The following acts do not constitute a violation of the rights of the owner of an industrial design:

- 1) the use of the industrial design on the territory of the Republic of Estonia temporarily or accidentally within the construction or equipment of a water craft, aircraft or land vehicle which is registered in a foreign state;
- 2) the importation in the Republic of Estonia of spare parts and accessories manufactured according to the industrial design for the purpose of repairing a craft or vehicle specified in subsection (1) of this section;
- 3) the private and non-commercial use of the industrial design;
- 4) the non-commercial use of the industrial design for study purposes if reference is made to the owner of the industrial design and such use does not harm the owner's interests;
- 5) the use of the industrial design for experimental purposes;
- 6) the distribution, sale, offer for sale or importation, exportation or storage for the aforesaid purposes of products manufactured according to the industrial design and put on the market in the Republic of Estonia or in a state which is a contracting party to the Agreement of the European Economic Area by the owner of the industrial design or with the owner's consent.

#### **§ 18. Right of prior use**

(1) A person who, prior to the filing of a registration application for an industrial design by another person, has, in good faith and independently of the applicant for registration of the industrial design (hereinafter applicant), used an identical or confusingly similar industrial design or has made serious preparations for the use of such industrial design in the Republic of Estonia, may continue to use the industrial design in the same manner or commence use of the industrial design as planned (hereinafter right of prior use). Use or preparations for use are

in good faith unless the person knew or should have known that the filing of a registration application for the industrial design was intended.

(2) A right of prior use can only be transferred to another person together with the enterprise or a part thereof with regard to which the right of prior use is established.

(3) [Repealed – RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **Part II**

# **REGISTRATION APPLICATION AND PROCESSING THEREOF**

## **Chapter 4**

### **REGISTRATION APPLICATION AND FILING THEREOF**

#### **§ 19. Registration application**

A registration application may include one industrial design, the variants of an industrial design or a set of industrial designs.

#### **§ 20. Registration application documents**

- (1) A registration application shall comprise the following documents:
- 1) a request for the registration of an industrial design;
  - 2) the representation of the industrial design;
  - 3) [repealed – RT I, 19.03.2019, 4 – entry into force 29.03.2019]
  - 4) a power of attorney if the applicants are represented by a representative appointed from among themselves (hereinafter joint representative) and the application is not signed by all the applicants;  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]
  - 5) documents certifying the priority claim if priority is claimed.

(2) A registration application may be accompanied by a description disclosing the subject matter of the industrial design.

(3) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(4) Registration application documents shall be filed in Estonian. Documents certifying priority claims may be filed in a foreign language.  
[RT I 2003, 88, 594 – entry into force 08.01.2004]

#### **§ 21. Request for registration of industrial design**

- (1) A request for the registration of an industrial design shall set out:
- 1) a request for registration of an industrial design;
  - 2) the name of the industrial design;
  - 3) the given name, surname and residential address of the applicant if the applicant is a natural person, or the name and address of the seat of the applicant if the applicant is a legal person, as well as the e-mail address if the applicant wishes to receive notices from the Patent Office by electronic means;  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]
  - 4) information on acquisition of the right to apply for the registration of the industrial design pursuant to the provisions of subsection 14 (1) or (2) of this Act;
  - 5) the given name, surname and residential address of the author;
  - 6) the given name and surname of the patent attorney if the application is filed via a patent attorney;
  - 7) the given name and surname of the representative if the representative is a natural person, or the name and address of the seat of the representative if the representative is a legal person, if the applicants have a joint representative;
  - 8) a priority claim if priority is claimed;
  - 9) a request to suspend the processing of an industrial design if the applicant wishes to defer entry of the industrial design in the register;
  - 9<sup>1</sup>) the number of variants, if variants of the industrial design are filed;
  - 10) prohibition against disclosure of the given name, surname and residential address of the author if the author so requests;
  - 11) the correspondence address of the applicant;
  - 12) the signature of the applicant, patent attorney or joint representative.

(1<sup>1</sup>) A request for the registration of an industrial design may set out the telephone number of the applicant, the personal identification code in case of an applicant who is a natural person, and the registry code in case of an applicant that is a legal person.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) A request for the registration of an industrial design may set out the numbers of the classes and subclasses of the International Classification of Industrial Designs to which the industrial design belongs.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

## **§ 22. Representation of industrial design**

(1) A representation of an industrial design shall give a clear and complete impression of the industrial design.

(2) A representation of an industrial design shall contain the aspect view of the industrial design and other views which are necessary for a clear and complete impression of the industrial design.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) A representation of an industrial design shall be photographic or graphic.

(4) A representation of a variant of an industrial design shall contain the aspect view of the variant of the industrial design and other views which are necessary for a clear and complete impression of the variant of the industrial design.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(5) A representation of a set of industrial designs shall contain the aspect view of the set of industrial designs and other views which are necessary for a clear and complete impression of the set of industrial designs as a whole.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **§ 23. Documents certifying priority claim**

(1) Documents certifying a priority claim are:

- 1) a document from the administrative agency which received the first registration application certifying the filing date of the registration application;
- 2) a copy of the first registration application the authenticity of which is certified by the administrative agency which received the first registration application.

(2) Translation of the documents specified in subsection (1) of this section into Estonian may be required in the course of processing a registration application.

(3) The Patent Office may accept also a document not specified in subsection (1) of this section as a document certifying a priority claim, or accept a reference to a public database where all the data underlying a priority claim are reliably accessible to the Patent Office, instead of a document.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **§ 24. Filing of registration applications**

(1) Registration applications are filed with the Patent Office.

(2) A state fee shall be paid for the examination of a registration application.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) The state fee for the examination of a registration application shall be paid within two months from the filing date of the registration application. The term for payment of the state fee cannot be extended.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(4) If a registration application contains more than two variants of an industrial design, a supplementary state fee shall be paid upon filing the registration application for every variant commencing with the third variant.

(5) A priority claim is filed upon filing of the registration application. Documents certifying a priority claim shall be filed within nine months from the date of priority. The term for submission of the said documents cannot be extended. Documents certifying the priority claim need not be submitted if priority is claimed on the basis of a first registration application filed in the Republic of Estonia or if the Patent Office accepts a reference to the data in a public database instead of a document certifying a priority claim in the case specified in subsection 23 (3) of this Act.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(6) A power of attorney issued to a joint representative shall be submitted within two months from the filing date of the registration application. The term for submission of the power of attorney cannot be extended.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(7) The requirements for the contents and form of the registration application and other documents to be submitted to the Patent Office shall be established by the regulation on industrial designs.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

## **§ 25. Representation of applicant**

(1) Acts related to industrial designs shall be performed at the Patent Office and at the Industrial Property Board of Appeal (hereinafter Board of Appeal) by interested persons or by patent attorneys representing them, who have been awarded the profession of a patent attorney for operating in the area of industrial designs pursuant to the Patent Attorneys Act. An interested person or patent attorney may involve, at own expense, an interpreter or adviser without the right of representation in an oral procedure at the Patent Office or at the Board of Appeal.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) A person with no residence, seat or commercial or industrial enterprise operating in the Republic of Estonia shall authorise a patent attorney as the person's representative to perform procedures related to registration and maintenance of an industrial design at the Patent Office and at the Board of Appeal, except the filing of an application.

(3) If several persons jointly perform acts related to industrial designs at the Patent Office and at the Board of Appeal, they may authorise a patent attorney as their representative or appoint a representative from among themselves, whose residence, seat or an operating commercial or industrial enterprise is in the Republic of Estonia.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(4) A patent attorney performing acts related to industrial designs at the Patent Office and at the Board of Appeal as a representative is presumed to have the right of representation. In case of doubts about the existence of the right of representation, the Patent Office or the Board of Appeal will be entitled to request the patent attorney to submit a power of attorney. The power of attorney shall be submitted within two months after the request.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(5) Personal participation by the applicant or owner of the industrial design in the processing regarding acts related to industrial designs shall not be deemed waiver of a representative, unless the principal has informed the Patent Office otherwise in writing.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **§ 25<sup>1</sup>. Notification by Patent Office**

(1) The Patent Office shall submit notices regarding acts related to industrial designs to the representative of the applicant, owner of the industrial design or other person applying for performance of acts, unless the principal has informed the Patent Office otherwise in writing, and in case there is no representative, then to the person himself or herself.

(2) Within the meaning of subsection (1) of this section, a representative is deemed to be a person who has submitted an application or request as a representative of the applicant, owner of the industrial design or other person applying for performance of acts, or who has performed other acts in the processing of the Patent Office or who has been entered in the register as the representative of the applicant or owner of the industrial design, unless the principal has informed the Patent Office otherwise in writing.

(3) If a person has several representatives within the meaning of subsection (2) of this section, notices shall be submitted to the most recently reported representative; in case of several representatives reported on the same day, the representative who is a patent attorney shall be preferred. If persons jointly performing acts have different representatives, notices shall be submitted to all the representatives.

(4) In case of an applicant, owner of the industrial design or other person who has set out an e-mail address in a registration application or request, and in case of a patent attorney, their consent for submission of notices regarding acts related to industrial designs by electronic means is presumed, unless they have informed the Patent Office otherwise in writing.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **§ 26. Power of attorney**

(1) A power of attorney may be in unattested written form.

(2) A power of attorney shall set out the following:

- 1) the given name, surname and residential address of the person represented if the person is a natural person, or the name and address of the seat of the person represented if the person is a legal person;
- 2) in the case of a patent attorney, the given name and surname of the patent attorney;



- 3) in the case of a joint representative who is a natural person, the given name and surname of the natural person; in the case of a joint representative who is a legal person, the name of the legal person;
- 4) the scope of the authorisation;
- 5) the term of the authorisation, if the authorisation is granted for a specified term;
- 6) the signature of the person represented;
- 7) the place and date of issue of the authorisation.

## **Chapter 5**

### **PROCESSING OF REGISTRATION APPLICATION**

**§ 27. [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]**

**§ 28. Filing date of registration application and acceptance for processing**

(1) Upon receipt of a registration application, the Patent Office shall mark every document of the registration application with a notation of receipt. The following information shall be entered in the notation of receipt:

- 1) the date of receipt of the registration application;
- 2) the sequence number of receipt of the registration application (hereinafter registration application number).

(2) [Repealed – RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) The date of receipt of a registration application by the Patent Office is deemed to be the filing date of the registration application if at least the following documents are filed on the date of receipt:

- 1) a request for registration of an industrial design;
- 2) the representation of the industrial design;
- 3) information allowing the identity of the applicant to be established or allowing the applicant to be contacted by the Patent Office;

(4) If any information specified in subsection (3) of this section is missing, the applicant shall be notified thereof and a term of two months shall be set for elimination of deficiencies. The Patent Office is not required to give notice if the filed documents do not contain the name or address of an applicant or the name of the representative of the applicant.

(5) If the name or address of an applicant or the name of the representative of the applicant is missing, the applicant shall, on own initiative, file all documents and information specified in subsection (3) of this section within two months from the date of receipt of the initially filed documents by the Patent Office.

(6) If an applicant files the missing documents and information relating to the registration application within a term set pursuant to subsection (4) of this section or, if subsection (5) applies, within the term provided for therein, the date on which all the documents and information specified in subsection (3) are submitted to the Patent Office is deemed to be the filing date of the registration application.

(7) The filing date of a registration application is not established if the applicant fails to submit the missing documents and information relating to the registration application to the Patent Office within the term prescribed in the cases provided for in subsections (4) and (5) of this section.

(8) A registration application the filing date whereof is established pursuant to subsection (3) or (6) of this section is accepted for processing. The Patent Office notifies the applicant of the filing date and number of the registration application.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

**§ 29. Refusal to accept registration application for processing**

(1) The Patent Office refuses to accept a registration application for processing if the filing date of the registration application is not established on the bases prescribed in subsection 28 (7) of this Act.

(2) In the case specified in subsection (1) of this section, the Patent Office makes a decision on refusal to accept a registration application for processing and notifies the applicant thereof. If a registration application is not accepted for processing, the applicant is entitled to a refund of the state fee paid by the applicant.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

**§ 30. [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]**

**§ 31. Verification of requirements for contents and form of registration application documents**

(1) The Patent Office shall verify:

- 1) the existence of the registration application documents pursuant to the provisions of § 20 of this Act and their compliance with the requirements for contents and form;
- 2) compliance with the terms for the filing of registration application documents pursuant to the provisions of § 24 of this Act;
- 3) the industrial design pursuant to the provisions of § 4, clauses 9 2) and 4, subsections 10 (1) and (2) and § 19 of this Act;
- 4) the class and subclass numbers of the International Classification of Industrial Designs (if no numbers are indicated, the Patent Office establishes the numbers).

(2) The Patent Office does not verify:

- 1) the industrial design pursuant to the provisions of subsection 5 (1), §§ 6 and 7, clauses 9 1), 3) and 5), and subsection 10 (3) of this Act;
- 2) the right of the applicant to apply for the registration of an industrial design pursuant to the provisions of subsection 14 (1) or (2) of this Act.

(3) If in the course of the verification pursuant to subsection (1) of this section it becomes evident that the registration application is not in compliance with the provisions of § 4, clauses 9 2) or 4, subsections 10 (1) or (2) or § 19 of this Act or a document specified in clause 20 (1) 1) of this Act is missing from the registration application or the documents filed do not conform to the established requirements for contents and form, the Patent Office shall notify the applicant thereof in writing and shall establish a term of at least two months for eliminating the deficiencies or providing explanations.

(4) If an applicant fails to respond to the notice specified in subsection (3) of this section by the due date or fails to pay the state fee in the prescribed amount within the term provided for in subsection 24 (3) of this Act, or fails to file a power of attorney within the prescribed term, the registration application is deemed to be partially or fully withdrawn.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(5) Where priority is claimed and an applicant does not submit documents certifying the priority claim within the term provided for in subsection 24 (5) of this Act, or the documents submitted do not conform to the provisions of § 23 or do not certify priority, the Patent Office shall not take the priority claim into consideration, and shall inform the applicant thereof in writing.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(6) The Patent Office may, at the request of the applicant and in justified cases, extend the term established pursuant to subsection (3) of this section for elimination of the deficiencies in the registration application or provision of explanations for up to six months. The request shall be filed before the end of the term provided for in subsection (3) of this section. A state fee shall be paid for extension of the term.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 32. Suspension of processing of registration application**

(1) On the basis of a reasoned request of the applicant, the Patent Office may suspend processing of a registration application for up to twelve months in total, including in case the applicant wishes to postpone the entry of the industrial design in the register.

(2) The applicant shall be notified of the suspension of processing of a registration application.

(3) Suspended processing is continued on the basis of the request of the applicant or upon expiry of the term specified in subsection (1) of this section.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 33. Division, restriction, correction and supplementation of registration application**

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(1) During processing, the applicant may divide a registration application which contains several variants of an industrial design into two or more registration applications, by distributing the variants among the applications. A state fee shall be paid for dividing a registration application.

(2) Applications which are the result of the division of a registration application shall preserve the filing date and priority of the initial registration application.

(2<sup>1</sup>) An applicant may restrict the variants of industrial design included in the application. The restriction shall enter into force on the date of receipt of the request by the Patent Office.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) An applicant may correct and supplement a registration application during processing such that no alterations are made to the industrial design which was applied for in the registration application on the filing date of the registration application.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 34. Withdrawal of registration application**

(1) An applicant may withdraw a registration application during processing by filing a written request for withdrawal of the registration application. A registration application is deemed to be withdrawn from the date of receipt of a request for withdrawal of the registration application by the Patent Office. Registration application documents are not returned.

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 35. Termination of processing of registration application**

(1) If a registration application is withdrawn or deemed to be partially or fully withdrawn in the cases specified in subsection 31 (4) of this Act, processing of the respective part of the registration application is terminated and the applicant is notified thereof. If processing is terminated, the application documents are not returned and the state fee is not refunded.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 36. Resumption of processing of registration application**

(1) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(2) An applicant may request that the processing of a registration application be resumed if the Patent Office has terminated the processing having deemed the registration application to be fully or partially withdrawn under subsection 31 (4) of this Act.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) The Patent Office shall resume the processing if the applicant submits a written request, pays the state fee prescribed for the resumption of the processing and performs the acts for the non-performance whereof the application was deemed to be partially or fully withdrawn pursuant to subsection 31 (4) of this Act. The Patent Office shall notify the applicant of the resumption of processing.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(4) A request for the resumption of processing shall be filed, the state fee shall be paid and the acts specified in subsection (3) of this Act shall be performed within two months after learning about the termination of processing, but not later than within six months after the due date for the act which was not performed.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 37. Decision to register industrial design**

If an industrial design is not contrary to the requirements of § 4, clauses 9 2) or 4) or subsections 10 (1) or (2) of this Act and the registration application complies with the requirements provided for in § 19 and subsection 33 (3) of this Act and the requirements for contents and form, the Patent Office makes a decision to register the industrial design and notifies the applicant thereof.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 38. Decision to refuse registration of industrial design**

If an industrial design is contrary to any of the requirements of § 4, clauses 9 2) or 4) or subsections 10 (1) or (2) of this Act, or the registration application fails to comply with the requirements provided for in § 19 and subsection 33 (3) of this Act or the requirements for contents and form or the applicant, while responding to the notification specified in subsection 31 (3), has failed to eliminate the deficiencies in the registration application or to provide explanations or provides insufficient explanations, the Patent Office makes a decision to refuse registration of the industrial design and notifies the applicant thereof.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 39. Filing appeals against decisions of Patent Office**

(1) An applicant may file an appeal with the Board of Appeal against a decision of the Patent Office made on the basis of this Act.

[RT I 2008, 59, 330 – entry into force 01.01.2009]

(2) An applicant may file an appeal with the Board of Appeal within two months from the date on which the decision of the Patent Office is made, and shall pay a state fee.

(3) [Repealed – RT I, 19.03.2019, 5 – entry into force 01.04.2019]

## **Chapter 6** **[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]**

### **Part III** **REGISTRATION OF INDUSTRIAL DESIGNS**

#### **Chapter 7** **REGISTER OF INDUSTRIAL DESIGNS**

[RT I 2004, 20, 141 - entry into force 01.05.2004]

##### **§ 55. Register of industrial designs**

(1) The register of industrial designs (hereinafter register) is maintained on the basis of this Act and the Principles of Legal Regulation of Industrial Property Act and pursuant to the procedure provided for in the specified Acts.

(2) Notices concerning register entries are published in the official gazette of the Patent Office in the cases provided for in the Acts specified in subsection (1) of this section. The Patent Office may, in the public interest and pursuant to the procedure established in the statutes of the official gazette of the Patent Office, publish notices concerning other register entries and other information in the official gazette of the Patent Office, the publication of which is not prohibited or restricted on the basis of the Acts specified in subsection (1) or international agreements.

(3) The statutes of the official gazette of the Patent Office shall be established by the regulation on industrial designs. The title of the official gazette of the Patent Office is «Eesti Tööstusdisainilahenduse Leht».  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

##### **§ 55<sup>1</sup>. Registration of industrial design in register**

(1) If a registration application is accepted for processing, the number and filing date of the registration application and the receipt by the Patent Office of the documents submitted on the basis of § 20 of this Act and other documents submitted on the applicant's own initiative, and information contained in such documents pursuant to § 25 of the Principles of Legal Regulation of Industrial Property Act, shall be entered in the register.

(2) In the course of processing a registration application, information and notices concerning the procedural acts provided for in this Act, documents received and issued, time-limits provided for in this Act and time-limits established by the Patent Office shall be entered in the register.

(3) Upon grant of legal protection to an industrial design, an entry of registration data is made in the register.

(4) An entry of registration data is made on the basis of a decision to register an industrial design pursuant to § 37 of this Act.

(5) Registration data are:

- 1) the registration number;
- 2) the date of registration;
- 3) the name of the industrial design;
- 4) the representation of the industrial design;
- 5) the number of variants of the industrial design;
- 6) the number of the class and subclass according to the International Classification of Industrial Designs;
- 7) the given name, surname and residential address of the author of the industrial design;
- 8) the given name, surname and residential address and country code of the owner of the industrial design or, in the case of a legal person, the name, address of the seat and country code of the owner of the industrial design;
- 9) the date as of which the registration is valid;
- 10) the date of expiry of the registration;
- 11) in the case of a patent attorney, the given name and surname of the patent attorney;
- 12) in the case of a joint representative who is a natural person, the given name and surname of the natural person, in the case of a joint representative who is a legal person, the name of the legal person;
- 13) the number of the registration application;
- 14) the filing date of the registration application;
- 15) information on priority (the date of priority, number and country of the registration application).

(6) The applicant specified in a decision set out in subsection (4) of this section is entered in the register as the owner of the industrial design.

(7) The Patent Office publishes a notice of the entry of registration data in the official gazette of the Patent Office. The publication date of the notice is entered in the register.

(8) A registration enters into force on the publication date of a notice of the entry of registration data in the official gazette of the Patent Office.

## **§ 55<sup>2</sup>. Certificate of Registration of Industrial Design**

(1) After the publication of a notice concerning the registration of an industrial design in the official gazette of the Patent Office, the Patent Office shall issue a certificate of registration of the industrial design to the owner of the industrial design.

(1<sup>1</sup>) On the basis of the request of an owner of an industrial design, a copy of an electronic certificate of industrial design shall be issued to the owner on paper. The copy shall be issued within twenty working days after submission of the request but not before the payment of the required state fee.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) [Repealed – RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) A duplicate of a certificate of industrial design may be issued on the basis of a request of the owner of the industrial design. The duplicate is issued within twenty working days after the submission of the request but not before the payment of the required state fee.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(4) The list of data to be set out in a certificate of industrial design, the procedure for issue of the certificate and, as necessary, the formal requirements shall be established by the regulation on industrial designs.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **§ 56. Validity of registration**

(1) A registration is valid for five years from the filing date of the registration application.

(2) A registration may be renewed by the owner of an industrial design for a period of five years at a time up to a total term of twenty-five years from the filing date of the registration application. A state fee shall be paid for renewal of a registration.

(3) The request to renew a registration shall be filed with the Patent Office and the state fee shall be paid within six months before the date of expiry of the registration or, if also a request for the restoration of the term is filed and additional state fee for the restoration of the term is paid, within six months from the date of expiry of the registration.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **§ 57. Access to and release of data from register**

(1) No information is released from the register on an author if the author has prohibited the disclosure of the author's name.

(2) Prior to the publication of a notice concerning the entry of registration data in the register, only the name of the industrial design, the registration application number, the filing date of the registration application, priority data and the name of the applicant and of the representative of the applicant may be released from the register.

(3) Prior to the publication of a notice concerning the entry of registration data in the register, access to a registry file is granted to the applicant, a person who has written consent of the applicant, or a person who proves that the applicant, after the registration of the industrial design, intends to resort to legal remedies against the person.

(4) After the publication of a notice concerning the entry of registration data in the register, the register is public. Everyone has the right to have access to the registry file and data entered in a record, except in the case of the restriction specified in subsection (1) of this section.

(5) In order to have access to a registry file or to receive written information, copies or printouts from the register, a written request shall be submitted and the state fee shall be paid. Applicants and owners of industrial designs have access to the registry files concerning their industrial designs free of charge.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(6) In order to receive a document certifying priority which consists of the confirmation by the Patent Office and a copy of the application, the applicant or the owner of the industrial design submits a written request. A state fee shall be paid for the issue of a document certifying priority.

(7) The procedure for access to the register and release of information from the register shall be established by the regulation on industrial designs.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

§ 58.–§ 61.[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

## **Chapter 8**

**[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]**

## **Chapter 9**

**[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]**

### **Part IV**

## **TRANSFER, EXTINGUISHMENT, CONTESTATION AND PROTECTION OF RIGHTS OF OWNER OF INDUSTRIAL DESIGN**

### **Chapter 10**

## **TRANSFER OF RIGHTS OF OWNER OF INDUSTRIAL DESIGNS**

#### **§ 71. Transfer of right to apply for registration of industrial design**

(1) Any person who pursuant to subsection 14 (1) or (2) of this Act has the right to apply for the registration of an industrial design may transfer such right to another person.

(2) The right to apply for the registration of an industrial design transfers to successors or legal successors.

#### **§ 72. Transfer of registration application**

(1) An applicant may transfer a registration application which is being processed by the Patent Office to another person.

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(3) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(4) The Patent Office shall amend the data specified in clause 21 (1) 3) of this Act in the registration application.

(5) A registration application is deemed to be transferred to another person as of the date on which the data concerning the applicant in the registration application is amended.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

#### **§ 73. Transfer of industrial designs**

(1) The owner of an industrial design may transfer the industrial design to another person. Upon the transfer of an industrial design to another person, all the rights of the owner of an industrial design specified in § 16 of this Act transfer to the other person.

(2) Upon the death of the owner of an industrial design or dissolution of the owner if the owner is a legal person, the rights of the owner transfer to the successors or legal successor.

(3) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(4) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(5) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

(6) The rights of the owner of an industrial design are deemed to be transferred to another person from the date of transfer of the rights pursuant to a transaction or a decision of the Board of Appeal or a court judgment, or from the date of creation of legal succession.  
[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(7) A person to whom the rights of the owner of an industrial design are transferred pursuant to the provisions of subsection (1) of this section may exercise such rights as of the date on which the entry on amendment of registration data becomes valid. A registry entry becomes valid on the date on which it is made. A registry entry shall have legal effect with regard to a third person as of the date on which a notice of the making of the registry entry is published in the official gazette of the Patent Office.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 73<sup>1</sup>. Request for entry on transfer of registration application and industrial design in register**

(1) A written request of the applicant, owner of the industrial design or another entitled person is the basis for making an entry on transfer of a registration application and industrial design in register.

(2) A state fee shall be paid for making an entry on transfer of a registration application and industrial design in register.

(3) If the request is submitted by the new applicant or new owner of the industrial design, a document certifying the transfer of the industrial design shall be appended to the request.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(4) The request shall be submitted within one year from the date on which the rights specified in the transaction are transferred or as of the date of creation of legal succession. If an industrial design is transferred pursuant to a court judgment, the request shall be filed within one month after the date on which the court judgment enters into force.

(5) In case of transfer of an industrial design encumbered with a registered security over movables, the written consent of the pledgee shall be appended to the request.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 73<sup>2</sup>. Applying for entry on amendment of registration data in other cases**

(1) A written request of the owner of an industrial design shall be the basis for making an entry on amendment of registration data.

(2) An entry on amendment of registration data shall not alter the industrial design which was applied for in the registration application on the filing date of the registration application.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

(3) If a request for performing an act related to an industrial design is submitted on behalf of the owner of the industrial design by another person with the right of representation than the representative entered in the register, the person submitting the request shall be entered in the register as a representative replacing the former representative, unless explicitly indicated otherwise in the request or unless the new representative and the representative entered in the register act through the same company.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 73<sup>3</sup>. Division of industrial design**

(1) The owner of an industrial design may divide a registration which contains several variants of the industrial design into two or more registrations by distributing the variants among the registrations.

(2) Registrations which result from division shall preserve the filing date and priority of the initial registration.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 73<sup>4</sup>. Request for entry of division of industrial design in register**

(1) A written request of the owner of an industrial design shall be the basis for making an entry on division of the industrial design.

(2) A state fee shall be paid for an entry on division of an industrial design.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 73<sup>5</sup>. Request for entry on surrender of industrial design in register**

A written request of the owner of an industrial design shall be the basis for making an entry on surrender of the industrial design.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 74. Licence**

(1) The owner of an industrial design (licensor) may, by way of a licence, grant the use over a portion or all of the rights of the owner of an industrial design specified in § 16 of this Act, to one or several persons (licensee).

(2) With the consent of a licensor, a licensee may transfer the right of use deriving from the licence agreement to a third person by way of a sublicense.

(3) The term of a licence shall not be longer than the term of the registration.

(4) Licences may be registered in the register.

(5) If there is a conflict of rights granted by different licences to several licensees, preference is given to the licensee whose licence is registered.

(6) An unregistered licence has no legal force with respect to third persons.

(7) A written licence agreement shall be entered into upon the grant of a licence.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 75. Validity of licence upon transfer of rights of owner of industrial design**

(1) [Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

(2) [Repealed – RT I 2002, 53, 336 – entry into force 01.07.2002]

(3) Upon the transfer of the rights of the owner of an industrial design to another person in the cases provided for in § 73 of this Act, the rights and obligations deriving from the licence are also transferred.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

### **§ 76. Request for entry of licence in register**

(1) A written request of the licensor or licensee shall be the basis for making an entry concerning a licence in the register. A state fee shall be paid for an entry concerning a licence.

(2) An extract of the licence agreement which contains information necessary for making an entry regarding the parties to the agreement, nature, scope and term of the licence, shall be appended to a request for entry concerning a licence in the register. The extract need not be submitted if the request for making an entry concerning a licence in the register has been signed both by the licensor and the licensee and the request contains the information necessary for making the entry.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) An entry concerning a licence agreement shall be deleted at the end of the term of the licence or at the written request of the licensor or licensee upon premature termination of the licence agreement.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 76<sup>1</sup>. Processing of requests specified in §§ 73<sup>1</sup>-73<sup>3</sup> and 76**

(1) If a request specified in §§ 73<sup>1</sup>-73<sup>3</sup> and 76 is filed by a joint representative, a power of attorney shall be added to the request. The power of attorney need not be appended if the request has been signed by all the principals or if a power of attorney filed with the Patent Office earlier for the performance of the same act is valid.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) The applicant shall be given notice of the making of an entry not later than on the twentieth working day as of the date of receipt of a valid request and necessary documents.

(3) A notice concerning the making of an entry is published in the official gazette of the Patent Office.

(4) If some of the information or documents necessary for the making of an entry are missing, the applicant shall be notified thereof not later than on the fifteenth working day as of the receipt of a defective request at the Patent Office and a term of two months shall be set for the elimination of deficiencies. If it is not possible to make the entry within the specified term on the basis of the documents submitted, the request is deemed to be not filed.



(5) If it is not possible to make an entry for any other reason provided by law, the applicant shall be notified thereof not later than on the fifteenth working day after receipt of the request by the Patent Office.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

## **Chapter 11**

# **EXTINGUISHMENT OF RIGHTS OF OWNER OF INDUSTRIAL DESIGN**

### **§ 77. Bases for extinguishment of rights**

(1) The rights of the owner of an industrial design extinguish upon expiry of the registration pursuant to § 56 of this Act.

(2) The rights of the owner of an industrial design extinguish prior to the date provided for in § 56 of this Act:

1) if the owner waives the rights of the owner of an industrial design without transferring the owner's rights to another person;

2) upon the death of the owner if the owner is a natural person if the rights are not transferred to a successor, or upon the dissolution of a legal person if the rights are not transferred;

3) on the basis of a decision of the Board of Appeal or a court judgment which has entered into force and which declares the registered industrial design to be contrary to the provisions of §§ 4-10, § 19 or subsection 33 (3) of this Act;

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

4) on the basis of a decision of the Board of Appeal or a court judgment which has entered into force and which declares that, pursuant to subsections 14 (1)–(3) of this Act, the owner specified in the registration had no right to apply for the registration of the industrial design, and the person who pursuant to the decision of the Board or Appeal or the court judgment is declared the owner of the industrial design has failed to file a request for amendment of the data entered in the registration on the owner of the industrial design pursuant to the procedure prescribed in subsections 73<sup>1</sup>(3) and (4);

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

5) at the request of an interested person, if during one year as of the deletion of the company from the commercial register no written request is filed for making an entry on transfer of the industrial design in the register.

(3) The making of an entry in the register on deletion of a registration constitutes the basis for the extinguishment of the rights of the owner of the industrial design.

[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 78. Making of entry on deletion of registration of industrial design**

[RT I 2004, 20, 141 – entry into force 01.05.2004]

(1) The Patent Office shall make an entry on deletion of a registration pursuant to the provisions of subsection 77 (1) of this Act six months after the expiry of the registration pursuant to § 56 of this Act or, if the registration is renewed to a total of twenty-five years, after the expiry of such term.

(2) In order to make an entry on deletion of a registration in the cases specified in subsection 77 (2) of this Act, the owner of the industrial design or an interested person shall file a request with the Patent Office. If the request is filed by an interested person, documents substantiating the claim shall be appended to the request.

(3) The Patent Office shall refuse to make an entry on deletion of a registration pursuant to the provisions of clause 77 (2) 1) of this Act if the rights of the owner of the industrial design are the object of a registered licence.

(4) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 79. Legal consequence of entry on deletion of registration of industrial design**

(1) Upon the making of an entry on deletion of a registration pursuant to the provisions of subsection 77 (1) of this Act, the rights of the owner of the industrial design extinguish on the day following the day of expiry of the registration.

(2) Upon the making of an entry on deletion of a registration pursuant to the provisions of clause 77 (2) 1) of this Act, the rights of the owner of the industrial design extinguish on the day following the day on which such entry is made.

(3) After a registration is deleted from the register, every person may manufacture products according to the industrial design, distribute, sell, offer for sale or import, export or store for the aforementioned purposes products which are manufactured according to the industrial design. Such right is retroactive to the date on which the rights of the owner of the industrial design expired.

## **Chapter 12**

# **CONTESTATION AND PROTECTION OF RIGHTS OF OWNER OF INDUSTRIAL DESIGN**

### **§ 80. Contestation of authorship of industrial design**

(1) Disputes concerning the authorship of an industrial design are resolved after registration of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) Any natural person who considers that he or she is the author of an industrial design pursuant to § 12 of this Act may file a request with the Board of Appeal for recognition of his or her authorship against the owner of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) Authorship may be contested by the author or his or her successor.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(4) Where authorship of a person is recognised, the person may contest the owner of the industrial design in the same processing pursuant to subsection 81 (1) of this Act.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(5) A participant in a processing concerning the request specified in subsection (2) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing within the term specified in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

### **§ 81. Contestation of industrial design and owner of industrial design**

(1) A person who finds that the rights of the owner of an industrial design belong him or her pursuant to subsections 14 (1)–(3) of this Act may file a request with the Board of Appeal for recognition of his or her ownership against the owner of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2) The request specified in subsection (1) of this section may be filed also after the expiry of the registration or surrender of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(2<sup>1</sup>) A participant in a processing concerning the request specified in subsection (2) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing for recognition of his or her ownership within the term provided for in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(3) A person who finds that the person who became the owner of an industrial design had no right to become the owner of the industrial design pursuant to subsection 5 (1), § 6, 7, or 9 or subsection 10 (1) or (2) of this Act and that the registration hinders such person in the person's economic or business activities, may file a request with the Board of Appeal for termination of the rights of the owner of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(4) The person specified in subsection 10 (3) of this Act who finds that the person who became the owner of an industrial design had no right to become the owner of the industrial design pursuant to subsection 10 (3), may file a request with the Board of Appeal for termination of the rights of the owner of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(5) The request specified in subsections (3) and (4) of this section may be filed also after the expiry of the registration or surrender of the industrial design.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

(6) A participant in a processing concerning the request specified in subsection (3) or (4) of this section who is not satisfied with a decision of the Board of Appeal, may file an action against another participant in the processing for termination of the rights of the owner of the industrial design or for ascertaining the non-existence of the circumstances providing grounds therefor within the term provided for in subsection 64 (1) of the Principles of Legal Regulation of Industrial Property Act.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

**§ 82. [RT I 2004, 20, 141 – entry into force 01.05.2004]**

**§ 83. Protection of rights of author of industrial design**

(1) The author of an industrial design has a perpetual right to file an action with a court upon violation of the right provided for in subsection 13 (1) of this Act or for the establishment of any other right deriving from his or her authorship.

(2) The author of an industrial design may file an action with a court for the resolution of a proprietary dispute relating to the industrial design within three years after the date on which the author becomes or should have become aware of the violation of the author's right.

**§ 84. Legal remedies in case of unlawful use of registered industrial design**

In the case of unlawful use of an industrial design, the owner of the industrial design may demand:

1) compensation for damage caused by unlawful use of the industrial design pursuant to § 1043 of the Law of Obligations Act;

2) [Repealed – RT I 2002, 63, 387 – entry into force 01.09.2002]

3) delivery of that which has been received as a result of the unlawful use of the industrial design pursuant to §§ 1037 and 1039 of the Law of Obligations Act.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

**§ 85. Protection of rights of other persons**

(1) A person who uses an industrial design in good faith before a registration application is filed, may file an action with a court against the owner of the industrial design for recognition of the person's right of prior use.

(2) If the exclusive right of the owner of an industrial design is violated and the owner of the industrial design does not file an action against the offender, the action may be filed by a licensee with a registered licence, unless the licence agreement prescribes otherwise. The licensee shall notify the owner of the industrial design of the licensee's wish to file an action. The obligation to notify is deemed to be performed if the notice is sent to the owner of the industrial design by registered mail to the address indicated in the licence agreement or in the registration of the industrial design.

[RT I 2002, 53, 336 – entry into force 01.07.2002]

(3) A person against whom an action has been filed pursuant to § 84 of this Act, is entitled to file a counterclaim with a claim specified in subsection 80 (2) or 81 (1), (3) or (4).

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

**§ 86. Specifications for resolution of industrial design disputes**

(1) Appeals and actions related to the legal protection, validity and unlawful use of industrial designs, petitions for the securing of an action and petitions for provisional legal protection, as well as other appeals and actions specified in this Act shall be heard by Harju County Court.

[RT I, 19.03.2019, 4 – entry into force 01.04.2019]

(1<sup>1</sup>) [Repealed – RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) A copy of a court decision which has entered into force concerning a dispute related to an industrial design shall be sent to the Patent Office immediately.

[RT I 2005, 39, 308 – entry into force 01.01.2006]

**§ 87. Representatives in court disputes concerning industrial design**

[RT I 2005, 39, 308 – entry into force 01.01.2006]

(1) In resolution of a dispute related to an industrial design, a patent attorney may act as a representative in a county court and circuit court. In Supreme Court, a patent attorney may act as a representative only together with an attorney-at-law.

(2) [Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

## **Chapter 12<sup>1</sup>**

# **INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS**

[Chapter 121 enters into force on the day when the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs enters into force with respect to the Republic of Estonia.]

### **§ 87<sup>1</sup>. Definition of international registration of industrial designs**

(1) For the purposes of this Act, international registration of industrial designs means registration of industrial designs according to the Geneva Act of the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter Geneva Act of the Hague Agreement), adopted in Geneva on 2 July 1999, in the International Register of the International Bureau of the World Intellectual Property Organisation (hereinafter International Bureau).

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) The Patent Office shall perform the functions arising from the Geneva Act of the Hague Agreement in Estonia and is the office within the meaning of this Agreement.

### **§ 87<sup>2</sup>. Legal protection of internationally registered industrial designs**

Industrial designs which are protected in the Republic of Estonia by way of international registration are subject to the same legal regime and have the same benefits together with the specifications arising from the Geneva Act of the Hague Agreement as the industrial designs registered in the Republic of Estonia.

### **§ 87<sup>3</sup>. Application for international registration of industrial designs**

(1) An application for the international registration of an industrial design (hereinafter international application) shall be submitted either directly to the International Bureau or to the Patent Office. The Patent Office shall forward an international application to the International Bureau within five working days from the filing date of the international application provided that the state fee has been paid for the forwarding of the international application. The Patent Office shall notify the applicant of the date of receipt of the international application and the date of forwarding thereof to the International Bureau.

[RT II 2008, 1, 1 – entry into force 18.04.2008]

(2) An international application shall comply with the requirements for contents and form provided for in the Geneva Act of the Hague Agreement and common guidelines for the implementation of the 1999, 1960 and 1934 Acts of the Hague Agreement concerning the international registration of industrial designs. The Patent Office does not verify the compliance of international applications with the requirements for the contents and form of applications.

[RT II 2008, 1, 1 – entry into force 18.04.2008]

(3) Upon filing of an international application with the Patent Office, a state fee shall be paid for forwarding the application to the International Bureau. Other fees according to the Geneva Act of the Hague Agreement shall be paid directly to the International Bureau.

[RT II 2008, 1, 1 – entry into force 18.04.2008]

(4) The procedure for the filing of international applications with the Patent Office shall be established by the regulation on industrial designs.

[RT II 2008, 1, 1 – entry into force 18.04.2008]

### **§ 87<sup>4</sup>. Processing of international registration of industrial designs**

(1) The Patent Office shall verify, pursuant to the provisions of § 4, clauses 9 2) and 4), subsections 10 (1) and (2) and § 19 of this Act, the international registrations of industrial designs (hereinafter international registration) in which the Republic of Estonia is indicated as a Contracting Party.

(2) The Patent Office shall notify the International Bureau of refusal to grant protection within six months from the date on which the International Bureau sent a copy of publication of an international registration to the Patent Office if the international registration is at variance with the requirements of § 4, clauses 9 2) or 4), subsections 10 (1) or (2), or § 19 of this Act.

(3) If, as a result of verification, it becomes evident that an international registration is not at variance with the requirements of § 4, clauses 9 2) and 4), subsections 10 (1) and (2) or § 19 of this Act, a notice of the international registration shall be published in the official gazette of the Patent Office six months after the date on which the International Bureau sent a copy of publication of the international registration to the Patent Office.

(4) The Patent Office shall establish and maintain the database of national processing of international registrations in which the Republic of Estonia is a designated Contracting Party.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(5) Information specified in subsection 57 (2) of this Act shall be released from the database of national processing of international registrations.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(6) A state fee shall be paid for release of information from the database of national processing of international registrations, with the exception of the release of information to state agencies with supervisory authority, or to a court.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

## **Chapter 12<sup>2</sup>** **COMMUNITY DESIGNS**

[RT I 2004, 20, 141 - entry into force 01.05.2004]

### **§ 87<sup>5</sup>. Registration of Community designs**

(1) The registration of a Community design means the registration of a design with the European Union Intellectual Property Office on the basis of the Regulation on Community Designs.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) The Patent Office is the central office in the field of legal protection of industrial property within the meaning of the Regulation on Community Designs.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

### **§ 87<sup>6</sup>. Application for Community design**

(1) An application for a Community design may be filed with the Patent Office which shall forward the application to the European Union Intellectual Property Office within two weeks from the date of filing of the application, and shall issue a corresponding notice to the applicant. Upon filing an application for a Community design with the Patent Office, a state fee for the forwarding of the application to the European Union Intellectual Property Office shall be paid.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(2) An application for a Community design shall be in conformity with the requirements for contents and form as specified in the Regulation on Community Designs and the Regulation concerning the enforcement of the Regulation on Community Designs. The application fee specified in Article 36 (4) of the Regulation on Community Designs shall be paid directly to the European Union Intellectual Property Office.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

(3) The procedure for filing an application for a Community design with the Patent Office shall be established by the minister responsible for the area by the regulation on industrial designs.  
[RT I, 28.12.2011, 1 – entry into force 01.01.2012]

(4) The Patent Office does not accept or forward any other documents or letters to be submitted to the European Union Intellectual Property Office.  
[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

### **§ 87<sup>7</sup>. Specifications of judicial proceedings in matters relating to Community designs**

(1) Matters relating to legal protection and validity of Community designs are heard by Harju County Court as the Community design court of first instance.

(2) Appeals against the judgments of the Community design court of first instance shall be filed with Tallinn Circuit Court as the Community design court of second instance.  
[RT I 2005, 39, 308 – entry into force 01.01.2006]

### **§ 87<sup>8</sup>. Prohibition on the use of Community designs**

In cases specified in subparagraphs (d), (e) and (f) of Article 25 of the Regulation on Community Designs, the holder of an earlier right specified in Article 110 (a) of the Regulation on Community Designs may file an action against an owner of the registered Community design for the protection of an exclusive right on the basis of § 84 of this Act for the prohibition on the use of the Community design in the Republic of Estonia.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]

## **Part V FINAL PART**

### **Chapter 13 STATE FEES**

#### **§ 88. State fees**

(1) A state fee shall be paid in the amount provided by the State Fees Act for examination of an application, issue of information and performance of other acts in the cases specified in this Act.

(2) The procedure for the payment of a state fee and verification thereof shall be established by the regulation on industrial designs.

[RT I, 19.03.2019, 4 – entry into force 29.03.2019]

#### **§ 89. Payment of state fees**

[Repealed – RT I, 19.03.2019, 4 – entry into force 29.03.2019]

#### **§ 90. Payment of state fees for renewal of term of registration**

[Repealed – RT I 2004, 20, 141 – entry into force 01.05.2004]

### **Chapter 13<sup>1</sup> LIABILITY**

[Repealed – RT I, 12.07.2014, 1 - entry into force 01.01.2015]

#### **§ 90<sup>1</sup>. Infringement of moral rights of author**

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

#### **§ 90<sup>2</sup>. Procedure**

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

### **Chapter 14 IMPLEMENTING PROVISIONS**

#### **§ 91. [Omitted from this text.]**

#### **§ 92. Transitional provision**

If a registration application upon the registration of the industrial design is filed within twelve months after the entry into force of this Act, every priority is acknowledged on the basis of a first registration application filed on or after 20 February 1991 in a country which has acceded to the Paris Convention for the Protection of Industrial Property.

#### **§ 92<sup>1</sup>. Proceedings concerning appeals, requests and actions filed before 1 April 2019**

(1) Proceedings concerning an action filed pursuant to this Act before 1 April 2019 shall be conducted by a court even in case mandatory pre-trial procedure in the Board of Appeal is prescribed for the settlement of the respective dispute starting from said date.

(2) Proceedings concerning an appeal, petition or action filed with a court pursuant to this Act before 1 April 2019 shall be conducted by a county court other than Harju County Court even in case Harju County Court has exclusive jurisdiction over adjudication of the respective appeal, petition or action starting from said date.

[RT I, 19.03.2019, 5 – entry into force 01.04.2019]

#### **§ 93. Entry into force of Act**

(1) This Act enters into force one month after the date of its publication in the *Riigi Teataja*.

(2) The provisions of this Act governing Community designs enter into force upon Estonia's accession to the European Union.  
[RT I 2004, 20, 141 – entry into force 01.05.2004]