
Industrial Designs

Chapter One

General Provisions

<u>Article NO</u>	<u>Topic</u>	<u>Page</u>
Article 1:	Basis -----	
Article 2:	Objectives -----	
Article 3:	Terms -----	
Article 4:	Implementation -----	
Article 4:	Registrar -----	
Article 5:	Register of Industrial Designs -----	
Article 6:	Public Access -----	

Chapter two

Ownership of Industrial Designs

<u>Article NO</u>	<u>Topic</u>	<u>Page</u>
Article 7:	Ownership -----	
Article 8:	Assignment and License -----	

Chapter Three

Registration of Industrial Designs

<u>Article NO</u>	<u>Topic</u>	<u>Page</u>
Article 9:	Registrability -----	
Article 10:	Application to Register an Industrial Design -----	
Article 11:	Priority -----	
Article 12:	Receipt -----	
Article 13:	Formal Examination; Supplementation -----	
Article 14:	Substantive Examination -----	
Article 15:	Registration -----	
Article 16:	Certificate of Registration -----	
Article 17:	Publication -----	
Article 18:	Marking -----	
Article 19:	Application to Supplement or Alter a Registered Industrial Design -----	

Article 20: Termination of Registration -----

Chapter Four **Protection of Industrial Designs**

<u>Article NO</u>	<u>Topic</u>	<u>Page</u>
Article 21:	Term -----	
Article 22:	Temporary Protection at International Exhibitions -----	
Article 23:	Maintenance Fees -----	
Article 24:	Exclusive Rights -----	

Chapter Five **Penalties**

<u>Article NO</u>	<u>Topic</u>	<u>Page</u>
Article 25:	Action -----	
Article 26:	Damages -----	
Article 27:	Injunctive Remedies -----	
Article 28:	Indemnification -----	

Chapter One **General Provisions**

Article 1. Basis

This Law is enacted pursuant to the Article 47 of the Constitution of Islamic Republic of Afghanistan.

Article 2. Objectives

The objectives of this law are as follows:

1. To protect, encourage and enforce the intellectual property rights of the creators and owners of industrial designs;
2. To facilitate the registration of industrial designs; and
3. To promote technological innovation and the dissemination of technology.

Article 3. Terms

Terms in this Law shall have the following meanings:

1. Industrial Design: A two-dimensional design or three-dimensional model that enhances the appearance of an industrial product by means of its form or of a particular combination of lines, colors or other features that appeal to the eye;
2. Rights in Industrial Designs: A privilege granted to a right holder in accordance with the provisions of this Law;
3. Registrar: Is an office which will be established under the office of Intellectual Property Rights and will register the Industrial Designs
4. Original Designer: The initial author or developer of an industrial design.

Article 4. Registrar

1. There shall be a Registrar of Industrial Designs within the Ministry of Commerce under the office of Intellectual Property Rights.

2. A document bearing the Registrar's official seal, and purporting to be signed or issued by the Registrar or his designee, shall, in the absence of proof to the contrary, be deemed to be signed or issued by or under the direction of the Registrar.

Article 5. Register of Industrial Designs

1. The Registrar shall establish and maintain a Register of Industrial Designs in accordance with this Law.

2. The Register shall be kept in such form as the Registrar considers appropriate, and may be kept in electronic form.

3. The responsible authority if needed may correct any obvious errors in, or omissions from, the Register.

Article 6. Public Access

1. Any person may have access to the Register at no charge for the purpose of inspection during any working day, at such times as the Registrar shall determine.

2. The Registrar shall, on application and payment of the prescribed fee, furnish to any person a copy, or a certified copy, of any particulars on the Register.

3. A certified copy of particulars on the Register, signed by the Registrar and sealed with the Registrar's seal, shall be received in evidence for all purposes as conclusive evidence that the particulars shown on the certified copy have been duly registered.

Chapter two

Ownership of Industrial Designs

Article 7. Ownership

1. The original designer (creator) of an industrial design is presumed to be its owner.

2. Notwithstanding paragraph 1 of this Article, where the original designer executes a design

1. Rights in industrial designs may be assigned or licensed, in whole or in part, by written instrument.
2. Any assignment or license shall be recorded on the Registry in the manner prescribed by regulation, upon payment of the designated fee.

Chapter three

Registration of Industrial Designs

Article 9. Registrability

1. Independently created industrial designs which are new or original may be registered and protected under this Law.

- if applicable, the date, place of issue and registration number of any prior foreign registration of the same design;
- such other information as shall be prescribed under the regulations; and
- the prescribed application fee, which shall not be refundable.

3. The application for registration shall be submitted in one of the official languages of Afghanistan and shall bear the date and the signature of the applicant.

Article 11. Priority

An application for the registration of an industrial design filed in Afghanistan by or on behalf of any person who has previously filed a regular application for the registration of the same industrial design in a foreign country has the same force as the same application would have if filed in Afghanistan on the first foreign filing date of that application, if the following conditions are met:

- (a) the application in Afghanistan is filed within six months from the date on which the foreign application was filed; and
- (b) the applicant requests priority in respect of the application filed in Afghanistan in accordance with applicable regulations, and complies with applicable regulations promulgated in accord with Article 4 of the Paris Convention for the Protection of Industrial Property.

Article 12. Receipt

Upon receipt of an application made in accordance with this Chapter, the Registrar shall provide

Article 14. Substantive Examination

1. Upon confirmation of a complete application under Article 13 of this Law, the Registrar shall undertake a substantive examination of the application and determine whether the design for which registration is sought meets the requirements of this Law for registration, and in particular the requirements of Article 9.
2. The Registrar shall, within 20 working days of confirmation of the completed application, inform the applicant in writing of its determination and the legal basis there for.
3. Where the Registrar finds that a design does not meet the requirements for registration, the Registrar shall notify the applicant in writing of the particular deficiencies that the Registrar has identified in the application and of the period for reply as set out in the regulations promulgated under this Law.
4. If the applicant does not file a reply within the designated period, the application shall be considered abandoned and the Registrar shall not enter the design in the Register.

Article 15. Registration

1. Upon a positive determination under Article 14 of this Law, the Registrar shall enter the industrial design into the Registry.
2. The Registry entry shall include the following information with respect to the registered design:
 - (a) the name and address of the owner and, if a different party, the original designer;
 - (b) the subject matter and a brief description of the design;
 - (c) the dates of both application and registration, both in Afghanistan and, if applicable, in a foreign country;
 - (d) the term of validity of the registration; and
 - (e) the registration number of the design.
3. Any subsequent assignments of rights under Article 8 of this Law shall be recorded on the Registry entry for the corresponding industrial design.

Article 16. Certificate of Registration

Upon registering an industrial design, the Registrar shall issue to the applicant a Certificate of Registration, dated and signed by the Registrar and sealed with the Registrar's seal. The Certificate shall include the name of the owner and the original designer, the subject matter of the design, the registration number, the term of validity of the registration, and a declaration that the industrial design has been registered in accordance with this Law.

Article 17. Publication

Upon a positive determination under Article 14 of this Law, the Registrar shall, promptly upon notifying the applicant of his decision, cause notice of the registration of the industrial design to be published in the Official Gazette in the prescribed manner, which shall include notice of procedures for objections.

Article 18. Marking

1. The owner of a registered industrial design shall have the right to affix [designated sign], along with the name, or the usual abbreviation of the name, of the owner of the design, to any article embodying the design and/or to the labels or packaging associated with those articles which are circulated in trade.
2. Such marking shall create constructive notice of the registration to the public. However, marking shall not be required as a condition of protection.

Article 19. Application to Supplement or Alter a Registered Industrial Design

1. The owner of any registered industrial design may apply to the Registrar for permission to supplement or alter such industrial design in any particular not being an essential particular.
2. Notice of any requested supplementation or alteration shall be published in the Official Gazette in the time and manner prescribed, along with notice of procedures for objections.
3. The Registrar, taking into account the application and any objections, shall refuse or grant the application on such terms as he may think fit.
4. Any supplementation or alteration to a registered design shall be reflected in the Registry and on the Certificate of Registration.

Article 20. Termination of Registration

1. An industrial design registered under this Law may be removed from the Register upon petition of an interested party or on the initiative of the Registrar, on the grounds that the conditions for registration are not met, or that the applicant is not the owner of rights in the industrial design.
2. A notice of intention to terminate a registration, and the legal grounds there for, must be served on the registered owner in the time and manner prescribed.

3. After service of notice of intention to terminate, the owner shall file a response with the Registrar and serve a copy on the petitioning party, if any, in the time and manner prescribed.
4. If the registered owner does not file and serve a response in a timely manner, the industrial design shall be removed from the Register and the owner shall promptly be informed of such in writing.
5. If the owner files and serves a response in a timely manner, the Registrar shall afford the owner and the petitioning party, if any, the opportunity to present at a hearing evidence and testimony to support their respective positions.
6. After considering the totality of the evidence, the Registrar shall, within the time prescribed,

3. A grace period of six months shall be allowed for the payment of the fees prescribed under this Article, subject to the payment of a surcharge.
4. To better facilitate the process, th

3. The judicial authorities shall also have the authority to order that materials and implements whose predominant use has been to create goods violating this Law be, without compensation of any sort, disposed of outside the channels of commerce in such a manner as to minimize the risk of further violations. In considering requests for relief under this paragraph, the need for proportionality between the seriousness of the violation and the remedies ordered, as well as the interests of third parties, shall be taken into account.

Article 28. Indemnification

1. The judicial authorities may order a party at whose request enforcement measures were taken, and who has abused enforcement procedures, to provide to a party wrongfully enjoined or restrained adequate compensation for the injury suffered because of such abuse.

2. In such a case, the judicial authorities shall also have the authority to order the applicant to pay the defendant's expenses, which may include appropriate attorney's fees.

Chapter 6 **Final Provisions**

Article 29. Appeals

1. The commercial court shall have jurisdiction to hear appeals on any administrative decision made by the Registrar under this Law.

2. An appeal made pursuant to this Article shall follow the prescribed form and procedure of the commercial court, and shall be subject to payment of the prescribed fee.

Article 30. Implementation

The Ministry of Commerce and Industries shall implement this Law.

Article 31. Enactment of Regulations and Procedures

The Ministry of Commerce and Industries may promulgate regulations and adopt by-laws and procedures for better implementation of the provisions of this Law.

Article 32. Date of Enforcement

The present Law shall come into force on the date which it is published in the Official Gazette.