

DESIGNS ACT 2021
(ACT NO. 38 OF 2021)

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ACT NO. 38 OF 2021

I assent.

J. K. KONROTE
President

[19 August 2021]

AN ACT

TO PROVIDE FOR THE REGISTRATION OF DESIGNS IN FIJI AND FOR
RELATED MATTERS

ENACTED by the Parliament of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

1.—(1) This Act may be cited as the Designs Act 2021.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

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

“article” means any article of manufacture and includes any part of an article if that part is made and sold separately;

“assignee” includes the personal representative of a deceased assignee, and references to the assignee of any person include references to the assignee of the personal representative or assignee of that person;

“Commissioner” means the Commissioner of Designs;

“convention country” means a country which is a party to a multilateral treaty relating to industrial designs to which Fiji is also a party;

“court” means the High Court of Fiji;

“design” means features of shape, configuration, pattern, or ornament applied to an article by any industrial process or means, being features which in the finished article give the article its overall appearance but does not include a method or principle of construction or features of shape or configuration which are dictated solely by the function which the article to be made in that shape or configuration has to perform;

“Government department” means a department of the civil service, under a ministry;

“Minister” means the Minister responsible for designs;

“Ministry” means the Ministry responsible for designs;

“owner” has the meaning assigned to it by section 8;

“register” means the register kept under section 27;

“registered owner” means the person or persons for the time being entered in the register as owner of the design; and

“set of articles” means a number of articles of the same general character ordinarily on sale or intended to be used together, to each of which the same design, or the same design with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, is applied.

(2) Any reference in this Act to an article in respect of which a design is registered is, in the case of a design registered in respect of a set of articles, to be construed as a reference to any article of that set.

(3) Any question arising under this Act as to whether a number of articles constitute a set of articles must be determined by the Commissioner, and notwithstanding anything in this Act any determination of the Commissioner under this subsection is final.

(4) For the purposes of sections 23(1) and 25(1), the expression “personal representative”, in relation to a deceased person, includes the legal representative of the deceased person appointed in any country outside Fiji.

(5) In the case of an entity that is a convention country but is not a state, part of a state, or a territory for whose international relations a state is responsible—

(a) a reference in this Act to—

(i) application for protection in a country; or

- (ii) application for protection in respect of a country, must be read as a reference to application for protection under the rules of the entity;
- (b) a reference in this Act to the law of a convention country must be read as a reference to the rules of the entity; and
- (c) a reference in this Act to the Government of a convention country must be read as a reference to the governing body of the entity.

Act binds the State

3. This Act binds the State.

Commissioner of Designs

4. The Solicitor-General is, for the purposes of this Act, to perform the functions and exercise the powers of the Commissioner of Designs.

Commissioner may delegate

5.—(1) The Commissioner may delegate to any person any of the Commissioner's functions, duties and powers except the power of delegation.

(2) A delegation—

- (a) must be in writing;
- (b) may be made subject to any restrictions and conditions that the Commissioner thinks fit;
- (c) is revocable at any time, in writing; and
- (d) does not prevent the performance or exercise of a function, duty or power by the Commissioner.

No liability of Commissioner and others

6. The Commissioner or any other person acting on behalf of the Commissioner is not liable for any act or omission done in the performance or intended performance of the Commissioner's functions or duties or the exercise or intended exercise of the Commissioner's powers under this Act if the Commissioner or other person acted—

- (a) in good faith;
- (b) in a reasonable manner; and
- (c) in the reasonably held belief that the prerequisites for the performance of any function or duty or the exercise of any power had been satisfied.

PART 2—REGISTRABLE DESIGNS AND PROCEEDINGS FOR REGISTRATION

Designs registrable under the Act

7.—(1) Subject to this section, a design may, on application made by the person claiming to be the owner, be registered under this Act in respect of any article or set of articles specified in the application.