

The Patents And Designs Act, 1911

(ACT NO. II OF 1911)

¹♣An Act to amend the law relating to the protection of Inventions and Designs

WHEREAS it is expedient to amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:-

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Patents And Designs Act, 1911.
- (2) It extends to the whole of Bangladesh.
- (3) It shall come into force on the first day of January, 1912.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,-
²[(1) “Attorney-General” means the Attorney General for Bangladesh]:
(2) “article” means (as respects designs) any article of manufacture and any substance, artificial or natural or partly artificial and partly natural:
³[* * *]
(4) “copyright” means the exclusive right to apply a design to any article in any class in which the design is registered:
(5) “design” means only the features of shape, configuration, pattern or ornament applied to any article by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in section 478, or property mark as defined in section 479 of the ⁴[Penal Code]:

(6) “District Court” has the meaning assigned to that expression by the Code of Civil Procedure, 1908:

(7) [Omitted by the Central Laws (Statute Reforms Ordinance, 1960) (Ordinance No. XXI of 1960).]

(8) “invention” means any manner of new manufacture and includes an improvement and an alleged invention:

(9) “legal representative” means a person who in law represents the estate of a deceased person:

(10) “manufacture” includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture:

(11) “patent” means a patent granted under the provisions of this Act:

(12) “patentee” means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent:

(13) “prescribed” includes prescribed by rules under this Act:

(14) “proprietor of a new or original design,”-

(a) where the author of the design, for good consideration, executes the work for some other person, means the person for whom the design is so executed; and

(b) where any person acquires the design or the right to apply the design to any article, either selersively of any other person or otherwise, means, in the respect and to the extent in and to which the design or right has been so acquired, the person by whom the design or right is so required; and

(c) in any other case, means the author of the design; and

⁵[(15) “Registrar” means the Registrar of Patents, Designs and Trade Marks appointed under section 55 (1) of this Act:]

and where the property in, or the right to apply, the design has devolved from the original proprietor upon any other person, includes that other person.

PART I

PATENTS

Application for and Grant of Patent

Application

3. (1) An application for a patent may be made by any person whether he is a citizen of Bangladesh or not, and whether alone or jointly with any other person.
- (2) The application must be made in the prescribed form, and must be left at the Department of Patents, Designs and Trade Marks in the prescribed manner.
- (3) The application must contain a declaration to the effect that the applicant is in possession of an invention, whereof he, or in the case of a joint application one at least of the applicants, claims to be the true and first inventor or the legal representative or assign of such inventor and for which he desires to obtain a patent, and must be accompanied by either a provisional or complete specification and by the prescribed fee.
- (4) Where the true and first inventor is not a party to the application, the application must contain a statement of his name, and such particulars for his identification as may be prescribed, and the applicant must show that he is the legal representative or assign of such inventor.

Specifications

4. (1) A provisional specification must describe the nature of the invention.
- (2) A complete specification must particularly describe and ascertain the nature of the invention and the manner in which the same is to be performed.
- (3) A specification, whether provisional or complete, must commence with the title, and in the case of a complete specification must end with a distinct statement, of the invention claimed.
- (4) Where the Registrar deems it desirable, he may require that suitable drawings shall be supplied at any time before the acceptance of the application, and such drawings shall be deemed to form part of the complete specification.

(5) If in any particular case the Registrar considers that an application should be further supplemented by a model or sample of anything illustrating the invention or alleged to constitute an invention, such model or sample as he may require shall be furnished before the acceptance of the application, but such model or sample shall not be deemed to form part of the specification.

(6) The Registrar may, where the application was accompanied by a specification purporting to be a complete specification, if the applicant so requests, treat the specification as a provisional specification and proceed with the application accordingly.

Time for leaving complete specification

⁶[4A. (1) If the applicant does not leave a complete specification with his application, he may leave it at any subsequent time within nine months from the date of the application:

Provided that the said nine months shall be extended to such period, not exceeding ten months from the date of the application, as may be specified in a request made by the applicant to the Registrar, if the request is made and the prescribed fee is paid within the period so specified.

(2) If the complete specification is not left within the period allowable under sub-section (1), the application shall be deemed to be abandoned at the expiration of ten months from the date thereof.

Provisional protection

4B. (1) An invention may, during the period between the date of an application for a patent therefor and the date of sealing a patent on that application, be used and published without prejudice to that patent, and such protection from the consequences of use and publication is in this Act referred to as provisional protection.

(2) In this section, the expression "date of an application for a patent" means, as respects an application which is post-dated or ante-dated under this Act, the date to which the application is so post-dated or ante-dated, and means, as respects any other application, the date on which it is actually made.]

**Proceedings
upon
application**

5. (1) The Registrar shall refer to an examiner every application in respect of which a complete specification has been filed and if satisfied on the report of the examiner that-

(a) the nature of the invention or the manner in which it is to be performed is not particularly described and ascertained in the complete specification, or

(b) the application, specification and drawings have not been prepared in the prescribed manner, or

(c) the title of the specification does not sufficiently indicate the subject-matter of the invention, or

(d) the statement of claim does not sufficiently define the invention, or

⁷[(dd) where a complete specification has been left after a provisional specification, the invention particularly described in the complete specification is not substantially the same as that which is described in the provisional specification, or

(e) the invention as described and claimed is prima facie not a manner of new manufacture or improvement, or

(f) the specification relates to more than one invention, or

(g) in the case of an application claiming priority under section 78A, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification field with the application made outside Bangladesh by virtue of which priority is claimed, or

(h) in the case of an application for a patent of addition under section 15A, the invention describe and claimed in the specification is not an improvement or modification of that described and claimed in the original specification,

he may refuse to accept the application or require that the application, specification or drawings be amended before he proceeds with the application; and in the later case the application shall, if the Registrar so directs, bear date as from the time when the requirement is complied with: