

Designs Act, 1911

UNION OF INDIA

India

Designs Act, 1911

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An Act to amend the law relating to the protection of 1 * * * Designs WHEREAS it is expedient to amend the law relating to the protection of 1* * * designs ; It is hereby enacted as follows:-Short title, extent and commencement.

1.

Short title, extent and commencement. (1) This Act may be called the 2*** Designs Act, 1911.

3.

[(2) It extends⁴ to the whole of India 5* * * .](3)It shall come into force on the first day of January, 1912. Definitions. 2. Definitions. In this Act, unless there is anything repugnant in the subject or context:- 6* * * (2)"article" means 7*** any article of manufacture and any substance, artificial or natural or partly artificial and partly natural;

8.

[(3) "Controller" means the Controller General of Patents, Designs and Trade Marks appointed under sub-section (1) of section 4 of the Trade and Merchandise Marks Act, 1958 ;](43 of 1958).(4)"copyright" means the exclusive right to apply a design to any article in any class in which the design is registered ----- 1 The words "Inventions and" omitted by Act, 39 of 1970. s. 162 and Sch. (w.e.f. 20-4-1972). 2 The words "Indian Patents and" omitted by s. 162 and Sch. ibid. (w.e.f. 20-4-1972). 3 Subs. by Act 32 of 1950, s. 3. for the former sub-section. 4 This Act has been extended to- Goa, Daman and Diu with modifications by Reg. 12 of 1962, s. 3 and Sch. and brought into force in Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I, with modification (w.e.f. 1-7-1965): and comes into force in Pondicherry with modifications vide Reg. 7 of 1963, s. 3 and Sch. I (w.e.f. 1-10-1963); Laccadive, Minicoy and Amindivi Islands vide Reg. 8 of 1965, s. 3 and Sch. (w.e.f. 1-10-1967). 5 The words "except the State

of Jammu and Kashmir" omitted by Act 62 of 1956, s. 2 and Sch.

6. Cl. (1) omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972). 7 The brackets and words "(as respects designs)" omitted by s. 162 and Sch., ibid. (w.e.f. 20-4-1972).

8. Subs. by s. 162 and Sch., ibid., for cl. (3) (w.e.f. 20-4-1972).

----- 6

1. [(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 2[trade mark as defined in clause (v) of sub-

section (1) of section 2 of the Trade and Merchandise Marks Act, 1958],(43 of 1958). or property mark as defined in section 479 of the Indian Penal Code;] (45 of 1860). 3* * * *

4.

[(7) "High Court" means- (a) in relation to a State, the High Court for that State; 5[(b) in relation to the Union territory of Delhi, the High Court of Delhi; 6* * * *] 7 [(c) in relation to the Union territory of Arunachal Pradesh or Mizoram, the Gauhati High Court, the High Court of Assam, Nagaland, Meghalaya, Manipur and Tripura ;] (d) in relation to the Union territory of the Andaman and Nicobar Islands, the High Court at Calcutta ; and (e) in relation to the Union territory of 8[Lakshadweep], the High Court of Kerala;]

----- 1 Subs. by Act 7 of 1930, s. 2, for the former clause. 2 Subs. by Act 39 of 1970, s. 162 and Sch., for certain words (w.e.f. 20-4-1972).

3. Cl. (6) omitted by s. 162 and Sch., ibid. (w.e.f. 20-4-1972).

4. Subs. by the Adaptation of Laws (No. 2) Order, 1956, for cl. (7) (w.e.f. 1-11-1956). 5 Subs. by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968, for cl. (b) (w.e.f. 1-11-1976). 6 Sub-clause (bb) omitted by the State of Himachal Pradesh (Adaptation of Laws on Union Subjects) Order. 1973 (w.e.f. 25-1-1971). 7 Subs. by the North Eastern Areas (Reorganisation) (Adaptation of Laws on Subjects) Order, 1974 for sub-clause (c) (w.e.f. 21-11-1972). 8 Subs. by the

Laccadive, Minicoy and Amindivi Islands (Alteration of Name) (Adaptation of Laws) Order, 1974 (w.e.f. 1-11-1973).

----- 7 1[(ee) in relation to the Union territory of Chandigarh, the High Court of Punjab and Haryana;] 2[(f) in relation to the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu, the High Court at Bombay; (g) in relation to the Union territory of Pondicherry, the High Court at Madras.] 3* * * * 4* * * *

(9)"legal representative " means a person who in law represents the estate of a deceased person; 4* * * *

5.

(12)"patent office" means the patent office referred to in section 74 of the Patents Act, 1970 ;] (39 of 1970).(13)"prescribed" includes prescribed by rules under this Act ;and(14)"proprietor of a 6[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 exclusively 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 acquired ; and (c) in any other case, means the author of the design ;and where the property in, or the right to apply, the design

----- 1 Cl. (ee) ins. by the Punjab Reorganisation and Delhi High Court (Adaptation of Laws on Union Subjects) Order, 1968. 2 Ins. by Act 39 of. 1970. s. 162 and Sch. (w.e.f. 20-4-1972). 3 Cl. (7A) ins. by Act 32 of 1950, s. 4, was omitted by Act 62 of 1956, s. 2 and Sch.

4. Cls. (8). (10) and (11) omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972). 5 Subs. by s. 162 and Sch., ibid., for the former clause (w.e.f. 20-4-1972). 6 Subs. by Act 7 of 1930, s. 2, for "new and original".

----- 8 has devolved from the original proprietor upon any other person, includes that other person. 1* * * *
* 2 2A. [Rule of construction in application of Act to Part B States.] Rep. by the Part B States (Laws) Act, 1951 (3 of 1951), s. 3 and Sch. PART

[Patents.] Rep.

**Part I – .-[Patents.] Rep. by the Patents Act, 1970, s. 162 and Sch. (w.e.f. 20-4-1972). PART DESIGNS Registration of Designs
PART II DESIGNS Registration of Designs**

Application for registration of designs.

43.

Application for registration of designs. (1) The Controller may, on the application of any person claiming to be the proprietor of any new or original design not previously published in 3[India], register the design under this Part.(2)The application must be made in the prescribed form and must be left at the Patent Office in the prescribed manner and must be accompanied by the prescribed fee.(3)The same design may be registered in more than one class, and, in case of doubt as to the class in which a design ought to be registered, the Controller may decide the question.(4)The Controller may, if he thinks fit, refuse to register any design presented to him for registration, but any person aggrieved by any such refusal may appeal to the 4 [Central Government].(5)An application which,, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within the prescribed time shall be deemed to be abandoned.(6)A design when registered shall be registered as of the date of the application for registration.Registration of designs in new classes. 44.Registration of designs in new classes. Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in -----

1. Cl. (15) ins. by the A. O. 1950, omitted by Act 32 of 1950, s. 4. 2 Ins. by s.5, ibid. 3 Subs. by s. 2, ibid. 4 Subs. by the A.O. 1937.

some one or more other classes shall not be refused, nor shall the registration thereof be invalidated- (a) on the ground of the design not being a 1[new or original design], by reason only that it was so previously registered; or (b) on the ground of the design having been previously published in 2[India], by reason only that it has been applied to goods of any class in which it was so previously registered: 3[Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.]Certificate of registration.

45.

Certificate of registration. (1) The Controller shall grant a certificate of registration to the proprietor of the design when registered.(2)The Controller may, in case of loss of the original certificate, or in any other case in which he deems it expedient, furnish one or more copies of the certificate. 46 Register of designs.

46.

Register of designs. (1) There shall be kept at the Patent Office a book called the Register of Designs, wherein shall be entered the names and addresses of proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matters as may be prescribed.(2)The register of designs existing at the commencement of this Act shall be incorporated

with and form part of the register of designs under this Act.(3)The register of designs shall be prima facie evidence of any matters by this Act directed or authorised to be entered therein. Copyright in Registered Designs. Copyright in Registered DesignsCopyright on registration.

47.

Copyright on registration. (1) When a design is registered, the registered proprietor of the design shall, subject to the provisions of this Act, have copyright in the design during five years from the date of registration.(2)If 4 * * * before the expiration of the said five years application for the extension of the period of copyright is made to the Controller in

----- 1 Subs. by Act 7 of 1930. s. 23. 2 Subs. by Act 32 of 1950, s. 2. 3 Ins. by Act 7 of 1930. s. 23. 4 The words "within the prescribed time" were rep. by Act 12 of 1939. s. 11. ----- 10 the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of five years.(3)If 1*** before the expiration of such second period of five years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller may, subject to any rules under this Act, on payment of the prescribed fee, extend the period of copyright for a third period of five years from the expiration of the second period of five years.Requirements before delivery on sales.

48.

Requirements before delivery on sales. (1) Before delivery on sale of any articles to which a registered re design has been applied, the proprietor shall- (a) (if exact representations or specimens were not furnished on the application for registration), furnish to the Controller the prescribed number of exact representations or specimens of the design ; and, if he fails to do so, the Controller may erase his name from the register, and thereupon the copyright in the design shall cease; and (b) cause each such article to be marked with the prescribed mark, or with, the prescribed words or figures, denoting that the design is registered ; and, if he fails to do so, the proprietor shall not be entitled to recover any penalty or damages in respect of any infringement of his copyright in the design unless he shows that he took all proper steps to ensure the marking of the article, or unless he shows that the infringement took place after the person guilty thereof knew or had received notice of the existence of the copyright in the design.(2)Where a representation is made to the 2[Central Government] by or on behalf of any trade or industry that in the interests of the trade or industry it is expedient to dispense with or modify as regards any class or description of articles any of the requirements of this section as to marking, the 2 [Central Government] may, if 2[it] thinks fit, by rule under this Act, dispense with or modify such requirements as regards any such class or description of articles to such extent and subject to such conditions as 2[it] thinks fit.

----- 1 The words "within the prescribed time" were rep. by Act 12 of 1939 s. 11. 2 Subs. by the A.O. 1937.

----- 11Effect of disclosure on copyright.

49.Effect of disclosure on copyright. The disclosure of a design by the proprietor to any other person, in such circumstances as would make it contrary to good faith for that other person to use or

publish the design, and the disclosure of a design in breach of good faith by any person other than the proprietor of the design, and the acceptance of a first and confidential order for goods bearing a new or original textile design intended for registration, shall not be deemed to be a publication of the design sufficient to invalidate the copyright thereof if registration thereof is obtained subsequently to the disclosure or acceptance. 50 Inspection of registered designs.

50.

Inspection of registered designs. (1) During the existence of copyright in a design, or such shorter period not being less than two, years from the registration of the design as may be prescribed, the design shall not be open to inspection except by the proprietor or a person authorized in writing by him, or a person authorized by the Controller or by the Court, and furnishing such information as may enable the Controller to identify the design, and shall not be open to the inspection of any person except in the presence of the Controller, or of an officer acting under him, and on payment of the prescribed fee ; and the person making the inspection shall not be entitled to take any copy of the design, or of any part thereof: Provided that, where registration of a design is refused on the ground of identity with a design already registered, the applicant for registration shall be entitled to inspect the design so registered.(2)After the expiration of the copyright in a design, or such shorter period as aforesaid, the design shall be open to inspection, and copies thereof may be taken by any person on payment of the prescribed fee,(3)Different periods may be prescribed under this section, for different classes of goods.Information as to existence of copyright. 51.Information as to existence of copyright. On the request of any person furnishing such information as may enable the Controller to indentify the design, and on payment of the prescribed fee, the Controller shall inform such person whet-her the registration still exists in respect of the design, and, if so, in respect of what classes of goods. and shall state the date of registration, and the name and address of the registered proprietor. 12

1.

[51A.Cancellation of registration. (1) Any person interested may present a petition for the cancellation of the registration of a design- (a) at any time after the registration of the design, to the High Court on any of the following grounds, namely:- (i) that the design has been previously registered in 2[India]; or (ii) that it has been published in 2 [India] prior to the date of registration ; or (iii) that the design is not a new or original design ; or (b) within one year from the date of the registration, to the Controller on either of the grounds specified in sub- clauses (i) and (ii) of clause (a).(2)An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.] 3[51B.Designs to bind Government. A registered design shall have to all intents the like effect as against Government as it has against any person and the provisions of Chapter XVII of the Patents Act, 1970,(39 of 1970). shall apply to registered designs as they apply to patents.] Industrial and International ExhibitionsProvisions as to exhibitions. 4[52. Provisions as to exhibitions. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the Official Gazette, or the publication of a description of the design,

during the period of the holding of the exhibition. or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof: Provided that-- (a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

----- 1 SS. 51A and 51B ins. by Act 7 of 1930, s. 24. 2 Subs. by Act 32 of 1950, s.2 3 Subs. by Act 39 of 1970, s. 162 and sch., for s. 51B (w.e.f. 20-4-1972). 4 Subs. by Act 12 of 1939 , s. 12, for the original section.

----- 13 (b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.] Legal ProceedingsPiracy of registered design.

53.

Piracy of registered design. (1) During the existence of copyright in any design it shall not be lawful for any person- (a) for the purpose of sale to apply or cause to be applied to any article in any class of goods in which the design is registered, the design or any fraudulent or obvious imitation thereof, except with the license or written consent of the registered proprietor, or to do anything with a view to enable the design to be so applied ; or 1[(aa) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof ; or] (b) knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article 1[in any class of goods in which the design is registered] without the consent of the registered proprietor, to publish or expose or cause to be published or exposed for sale that article.(2)If any person acts in contravention of this section, he shall be liable for every contravention- (a) to pay to the registered proprietor of the design a sum not exceeding five hundred rupees recoverable as a contract debt, or (b) if the proprietor elects to bring a suit for the recovery of damages for any such contravention, and for an injunction against the repetition thereof, to pay such damages as may be awarded and to be restrained by injunction accordingly : Provided that the total sum recoverable in respect of any one design under clause (a) shall not exceed one thousand rupees.

----- 1 Ins. by Act 12 of 1939, s. 13.

----- 14(3)When the Court makes a decree in a suit under sub-section(2), it shall send a copy of the decree to the Controller, who shall cause an entry thereof to be made in the register of designs.Application of certain provisions of the act as to patents to designs. 54.Application of certain provisions of the act as to patents to designs.The provisions of the Patents Act, 1970. with regard to certificates of the validity of a patent, and to the remedy in case of groundless threats of legal proceedings by a patentee shall apply in the case of registered designs in like manner as they apply in the case of patents, with the substitution of references to the copyright in a design for references to a patent, and of references to the proprietor of a design for references to the patentee, and of references to the designs for references to the invention. PART GENERAL PART III GENERAL Patent Office and Proceedings threatPatent Office. 55.[Patent Office.] Rep. by the Patents Act, 1970, 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972).Officers and clerks. 56. (Officers and clerks] Rep. by a. 162 and Sch., ibid.(w,e,f.

20-4-1972). Fees Fees.

57.

Fees. 2 [(1) There shall be paid in respect of the registration of designs and applications therefor and in respect of other matters relating to designs under this Act such fees as may be prescribed by the Central Government.](2)A proceeding in respect of which a fee is payable under this Act or the rules made thereunder shall be of no effect unless the fee has been paid. Provisions as to Registers and other Documents in the Patent OfficeNotice of trust not to be entered in registers. 58.Notice of trust not to be entered in registers. There shall not be entered in any register kept under this Act, or be receivable by the Controller, any notice of any trust, expressed, implied or constructive.

----- 1 Subs. by Act 39 of 1970, s. 162 and Sch. for certain words (w.e.f. 20-4-1972).

2. Subs. by s. 162 and Sch., *ibid.*, for sub-section (1) (w.e.f. 20-4-1972).

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Inspection of and extracts from registers. 59.Inspection of and extracts from registers. Every register kept under this Act shall at all convenient times be open to the inspection of the public, subject to the provisions of this Act; and certified copies, sealed with the seal of the Patent Office, of any entry in any such register shall be given to any person requiring the same on payment of the prescribed fee. 59A.[Information relating to patents.] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972).Privilege of reports of Controller. 60.Privilege of reports of Controller. Reports of or to the Controller made under this Act shall not in any case be published or be open to public inspection.Prohibition of publication of specification, drawings, etc., where application abandoned, etc. 61. Prohibition of publication of specification, drawings, etc., where application abandoned, etc. 1* * * * *(2)Where an application for a design has been abandoned or refused, the application and any drawings, photographs, tracings, re- presentations or specimens left in connection with the application shall not at any time be open to public inspection or be published by the Controller.Power of Controller to correct clerical errors. 2[62.Power of Controller to correct clerical errors. The Controller may, on request in writing accompanied by the prescribed fee, correct any clerical error in the representation of a design or in the name or address of the proprietor of any design or in any other matter which is entered upon the register of designs.]Entry of assignments and transmissions in registers.

63.

Entry of assignments and transmissions in registers. 3[(1) Where a person becomes entitled by assignment, transmission or other operation of law 4* **to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such 4 * design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the**

title.(2)Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a 4*** registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction,

1. Sub-section (1) omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972). 2 Subs. by s. 162 and Sch., ibid, for s. 62 (w.e.f. 20-4-1972).

3. Subs. by Act 7 of 1930, s. 26, for sub-sections (1) and (2). 4 Certain words omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972).

----- **16 cause notice of the interest to be entered in the prescribed manner in the register of 1[designs,] with particulars of the instrument, if any, creating such interest.]**

(3)The person registered as the proprietor of a 2* **design shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the 2 *** design and to give effectual receipts for any consideration for any such assignment, license or dealing: Provided that any equities in respect of the 2*** design may be enforced in like manner as in respect of any other movable property.

3.

[(4) Except in the case of an application made under section 64, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections(1)and (2) shall not be admitted in evidence in any Court in proof of the title 2*** to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs.]Rectification of register.

64. Rectification of register. (1) 4[The Controller] may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the register of 2* designs of any entry, or by any entry made in 2* such register without sufficient cause, or by any entry wrongly remaining on 2* such register, or by an error or defect in any entry in 2* such register, make such order for making, expunging or varying such entry 4 [as he thinks fit and rectify the register accordingly.]

(2)The 4[Controller] may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.

4. [(3) An appeal shall lie to the High Court from any order of the Controller under this section ; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred.]

(4) Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner, who shall upon the receipt of such notice rectify the register accordingly. ----- 1 Subs. by Act 39 of 1970, s. 162 and Sch.. for certain words (w.e.f. 20-4-1972). 2 Certain words omitted by s. 162 and Sch., ibid. (w.e.f. 20-4- 1972). 3 Ins. by Act 7 of 1930, s. 26. 4 Subs. by s. 27, ibid.

----- 17

1.

[(5) Nothing in this section shall be deemed to empower the Controller- 2* * * * (b) to make any such order cancelling the registration of a design as is provided for in section 51A.] Powers and Duties of Controller Powers of Controller in proceedings under Act. 65. Powers of Controller in proceedings under Act. Subject to any rules in this behalf, the Controller in any proceedings before him under this Act shall have the powers of a Civil Court for the purpose of receiving evidence, 3* **administering oaths, 3 *** enforcing the attendance of witnesses, 3*** 4 [compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any Court having jurisdiction as if it were a decree of that Court]. 66. [Publication of patented inventions.] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972). Exercise of discretionary power by Controller. 67. Exercise of discretionary power by Controller. Where any discretionary power is by or under this Act given to the Controller, he shall not exercise that power adversely to the applicant 5*** for registration of a design, without (if so required within the prescribed time by the applicant) giving the applicant an opportunity of being heard. Power of Controller to take directions of the Central Government. 68. Power of Controller to take directions of the Central Government. The Controller may, in any case of doubt or difficulty arising in the administration of any of the provisions of this Act, apply to the 6[Central Government] for directions in the matter. Refusal to grant patent, etc., in certain cases.

69.

Refusal to grant patent, etc., in certain cases. 7[(1)] The Controller may refuse 5*** to register a design, of which the use would, in his opinion, be contrary to law or morality.

----- 1 Subs. by Act 7 of 1930, s. 27. 2 Cl. (a) omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4- 1972). 3 The word "and" omitted by Act 12 of 1939, s. 15. 4 Subs. by s. 15, ibid. 5 Certain words omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20- 4-1972). 6 Subs. by the A.O. 1937.

7. The original s. 69 was re-numbered as sub-section (1) of that section by Act 7 of 1930, s. 28. ----- 18

1.

[(2) An appeal shall lie to the 2[Central Government] from an order of the Controller under this section.]Appeals to the Central Government.

70.

Appeals to the Central Government. (1) Where an appeal is declared by this Act to lie from the Controller to the 2[Central Government], the appeal shall be made within 3[three] months of the date of the order passed by the Controller, and shall be in writing, and accompanied by the prescribed fee.(2)In calculating the said period of 3[three] months the time (if any) occupied in granting a copy of the order appealed against shall be excluded.(3)The 2[Central Government] may, if 2[it] thinks fit, obtain the assistance of an expert in deciding such appeals, and the decision of the 2[Central Government] shall be final. Evidence, etc. 4[70A.Evidence before the Controller. Subject to any rules made under section 77, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary ; but in any case in which the Controller thinks it right so to do he may take evidence viva voce in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit.]Certificate of Controller to be evidence. 71.Certificate of Controller to be evidence. A certificate purporting to be under the hand of the Controller as to any entry, matter or thing which he is authorized by this Act, or any rules made thereunder, to make or do, shall be prima facie evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or left undone. 5[71A.Evidence of documents in Patent Office. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of 6*** documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in 7 [India),

----- 1 ins. by Act 7 of 1930, s. 28 the A.O. 1937. 2 Subs. by the A.O. 1937. 3 Subs. by Act 7 of 1930, s. 28. 4 Ins. by Act 12 of 1939, s. 16. 5 Ins. by s. 17, ibid. 6 Certain words omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20- 4-1972). 7 Subs. by Act 32 of 1950, s. 2. ----- 19 and in all proceedings, without further proof or production of the originals : Provided that a Court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary.]Transmission of copies of specifications, etc., and inspection thereof. 72. [Transmission of copies of specifications, etc., and inspection thereof.] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972).Applications and notices by posts. 73.Applications and notices by posts. Any application, notice or other document authorized or required to be left, made or given at the Patent Office or to the Controller, or to any other person under this Act, may be sent by post.Declaration by infant, lunatic, etc.

74.

Declaration by infant, lunatic, etc. (1) If any person is, by reason of infancy, lunacy or other disability, incapable of making any statement or doing anything required or permitted by or under this Act, the lawful guardian, committee or manager (if any) of the person subject to the disability, or, if there be none, any person appointed by any Court possessing jurisdiction in respect of his property, may make such statement or a statement as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of the person subject to the disability.(2)An appointment may be made by the Court for the purposes of this section upon the petition of any person acting on behalf of the person subject to the disability or of any other person interested in the making of the statement or the doing of the thing. 1 74A. [Security for costs.] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972). AgencySubscription and verification of certain documents. 75. [Subscription and verification of certain documents.] Rep. by the patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4- 1972).Agency.

76.

Agency. (1) All 2* * *applications and communications to the Controller under this Act may be signed by, and all attendances upon the Controller may be made by or through a legal practitioner or by or through an agent authorised to the satisfaction of the Controller.(39 of 1970).

----- 1 Ins. by Act 7 of 1930, s. 30. 2 Certain words omitted by Act 39 of 1970. s. 162 and Sch. (w.e.f. 20-4-1972).

----- 20(2)The Controller may, if he sees fit, require- (a) any such agent to be resident in 1[India]; (b) any person not residing in 1[India] to employ an agent residing in 1[India]; (c) the personal signature or presence of any applicant 2*** or other person. Powers, etc., of 3[Central Government]Power for Central Government to make rules.

77.

Power for Central Government to make rules. (1) The 3[Central Government] may make such rules as 3 [it] thinks expedient subject to the provisions of this Act- (a) for regulating the practice of registration under this Act (b) for classifying goods for the purposes of designs; (c) for making or requiring duplicates of 2* * * drawings and other documents ; (d) for securing and regulating the publishing and selling of copies, at such prices and in such manner as the -3[Central Government] thinks fit, of 4* * * drawings and other documents ; 5[(e) providing for the inspection of documents in the Patent Office and for the manner in which they may be published;] 6[(ee) for the manner in which fees leviable under this Act may be paid 7* * * * *] (f) generally for regulating the business of the Patent Office, the conduct of proceedings before the Controller, and all things by this Act placed under the direction or control of the Controller or of the 3[Central Government]; and (g) generally for the purpose of carrying into effect the provisions of this Act.(2)The power to make rules under this section shall be subject to the condition of the rules being made after previous publication.

----- 1 Subs. by Act 32 of 1950, s. 2. 2 Certain words omitted by Act, 39 of 1970, s. 162 and Sch. (w.e.f. 12-4-1972). 3 Subs. by the A.O. 1937. 4 The word "specification" omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972). 5 Subs. by s. 162

and Sch., ibid., for cl. (e) (w.e.f. 20-4-1972). 6 Ins. by Act 7 of 1930, s. 31. 7 Cl. (eee) omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972).

----- 21 1* * * * (3) All rules made under this section shall be published in the 2[Official Gazette], and on such publication shall have effect as if enacted in this Act.

3.

[(4) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.] Offences Wrongful use of words "Patent Office".] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972). 4[Reciprocal arrangements with the United Kingdom and other Commonwealth countries 78A. Reciprocal arrangement with United Kingdom and other Commonwealth countries. 5[(78A. Reciprocal arrangement with United Kingdom and other Commonwealth countries. (1) Any person who has applied for protection for any design in the United Kingdom or his legal representative or assignee shall, either alone or jointly with any other person, be entitled to claim that the registration of the said design under this Act shall be in priority to other applicants and shall have the same date as the date of the application in the United Kingdom: Provided that- (a) the application is made within six months from the application for protection in the United Kingdom; and (b) nothing in this section shall entitle the proprietor of the design to recover damages for infringements happening prior to the actual date on which the design is registered in India. (2) The registration of a design shall not be invalidated by reason only of the exhibition or use of, or the publication of a description or representation of, the design in India during the period specified in this section as that within which the application may be made. (3) The application for the registration of a design under this section. must be made in the same manner as an ordinary application under this Act. (4) Where it is made to appear to the Central Government that the legislature of any such Commonwealth country as may be notified by the Central Government in this behalf has made satisfactory provision

----- 1 Sub-section (2A) ins. by Act 7 of 1930, s. 31 was omitted by Act 39 of 1970, s. 162 and Sch. (w.e.f. 20-4-1972). 2 Subs. by the A. O. 1937. 3 Ins. by Act 4 of 1986, s. 2 & Sch. (w.e.f. 15-5-1986) 4 The heading and s. 78A ins. by Act 29 of 1920. a. 2. 5 Subs. by Act 39 of 1970, s. 162 and Sch., for s. 78A, (w.e.f. 20-4-1972).

----- 22 for the protection of designs registered in India, the Central Government may, by notification in the Official Gazette, direct that the provisions of this section, with such variations or additions, if any, as may be set out in such notification, shall apply for the protection of designs registered in that Commonwealth country.]] 178B. [Special provisions relating to applications relevant for defence purposes.] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972). 178C. [Special provisions in respect of applications for patents in the field of food, drug or medicine.] Rep. by the Patents Act, 1970 (39 of

1970), 162 and Sch. (w.e.f. 20-4-1972). 178D. [Consequence of directions under section 78B or section 78C.] Rep. by the Patents Act 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972.) 178E. [Contravention of directions under section 78B.] Rep. by the Patents Act, 1970 (39 of 1970), s.162 and Sch. (w.e.f. 20-4-1972). Savings and Repeal Saving for prerogative. 79. [Saving for prerogative.] Rep. by the Adaptation of Laws Order, 1960. Repeals and savings.

2.

[80. Repeals and savings. (1) 3 [If immediately before- (i) the 18th day of April, 1950, in relation to any Part B State other than the State of Jammu and Kashmir. and (ii) the date of commencement of the Jammu and Kashmir (Extension of Laws) Act, 1956, (62 of 1956) in relation to the State of Jammu and Kashmir, there was in force in the Part B State concerned] any law corresponding to this Act, that corresponding law shall be deemed to have been repealed on the date aforesaid : Provided that the repeal shall not affect- (a) the previous operation of any law so repealed or anything duly done or suffered thereunder, or

----- 1 Ins. by Act 44 of 1968. s. 2 (w.e.f. 10-7-1968). 2 Ins. by Act 3 of 1951 s. 3 and Sch. 3 Subs. by Act 62 of 1956, s. 2 and Sch., for certain words. ----- 23 (b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed, or (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed, or (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not come into force in the Part B State concerned : Provided further that, subject to the preceding proviso, anything done or any action taken, including any patent, permit or licence granted or registration effected under any such corresponding law shall be deemed to have been done or taken under the corresponding provision of this Act as now extended to that State and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act. (2) Nothing contained in section 6 of the Part B States (Laws) Act, 1951, (3 of 1951). 1 [or section 5 of the Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956), shall have- effect in relation to this Act.] 81. [Substitution of patents for rights under repealed Act.] Rep. by the Repealing and Amending Act, 1920 (31 of 1920), s. 3 and Sch. II. SCHE Fees THE SCHEDULE. [Fees.] Rep. by the Patents Act, 1970 (39 of 1970), s. 162 and Sch. (w.e.f. 20-4-1972). ----- 1 Ins. by Act 62 of 1956, s. 2 and Sch. -----