

Kingdom of Cambodia
Nation Religion and King

Ministry of Industry, Mines and Energy
N° : 707 MIME.DIP.PRK

(Unofficial translation)

PRAKAS
(DECLARATION)
ON
THE PROCEDURE FOR
THE REGISTRATION OF INDUSTRIAL DESIGNS

MINISTER OF MINISTRY OF INDUSTRY, MINES AND ENERGY

- Seen the constitution of the Kingdom of Cambodia;
- Seen the Royal Degree N° NS/RKT/124 dated July 15, 2004 on the Appointment on the Royal Government of Cambodia;
- Seen the Royal Kram N° 02/NS/94 dated July 20, 2004 promulgating the Law on Organization and Functioning of the Council of Ministers;
- Seen the Royal Kram N° NS/RKT/0196/05 dated January 24, 1996 promulgating the Law on the Establishment of the Ministry of Industry, Mines and Energy;
- Seen the Royal Kram N° NS/RKM/0103/005 dated January 22, 2003 promulgating the Law on the Patents, Utility Model Certificates and Industrial Designs;
- Seen the Royal Degree N° 35 RNKRBK dated April 26, 1999 on the Organization and Functioning of the Ministry of Industry Mines and Energy;
- Seen the Sub-Degree N° 43 ANKRBK dated May 30, 2003 on the Upgrading Office of Industrial Property of the Department of Industrial Technique to the Department Industrial Property of Department General of Industry of the Ministry of Industry, Mines and Energy;
- Seen Declaration N° 487 OURT.BL.PRK dated May 19, 2003 on the Organization and Functioning of the Department of Industrial Property
- Pursuant to the necessary needs of the Ministry of Industry, Mines and Energy.

DECIDES

SECTION 1
GENERAL PROVISION

Rule 1.- Determination of Characteristic of the Prakas

This Prakas (Declaration) may be cited as Regulation for implementation of the Law on Patents, Utility Model Certificates and Industrial Designs in accordance with Article 130 of the Law on Patents, Utility Model Certificates and Industrial Designs.

Rule 2.- Duty of Registration Department

The Registration Department shall, in accordance with the Law, registers and examines the industrial design application in order to protect the intellectual property of creator of industrial design.

RULE 3.- Interpretation

In this Declaration the following words shall be interpreted:

- **Law** means the Law on Patents, Utility Model Certificates and Industrial Designs, promulgated by the Royal Degree NS/RKM/0103/005, dated January 22, 2003.
- **Minister** means the Minister of the Ministry of Industry, Mines and Energy.
- **Registrar** means the Director of Department of Industrial Property.
- **Registration Department** means Department of Industrial Property.
- **Paris Convention** means the convention was signed in Paris on Protection of Industrial Property on March 20, 1883 and last revised.
- **Earlier application** means an application which has been earlier filled or earlier registered.

SECTION 2

PROCEDURES FOR REGISTRATION OF INDUSTRIAL DESIGNS

Rule 4.- Classification of Industrial Designs

The Registrar shall apply the International Classification of Industrial Design as adopted under the Locarno Agreement of October 08, 1968, and updated in its subsequent editions, for all purposes relating to the registration and publication of Industrial Design, as well as for the maintenance of classified search files.

Rule 5.- Application for Registration of Industrial Designs

The application for registration of industrial design shall be accompanied as following:

1- Application for registration of industrial design contained a request, drawing, photographs or other adequate graphic representations of the article embodying the industrial design and an indication of the kind of products for which the industrial design is to be used ,as referred in Article 95 of the Law ,shall be filed with the Registration Department and shall be subject to the payment of the prescribed application fee.

2- Request for registration of industrial design shall be made on Form **Nº 1 ID** as attached in **annex A** of this Declaration.

3- The request shall indicate each applicant's name, address, nationality and residence and shall be signed by each applicant.

4- Where applicant is the creator, the request shall contain a statement to that effect, and, where he is not, it shall indicate each creator's name and address and be accompanied by the statement justifying the applicant's right to the registration of the industrial design.

5- If the applicant is represented by an agent, the request shall so indicate and state the agent's name and address.

6- A request by the applicant for deferment of publication of the industrial design or designs comprised in the application shall be made in writing and shall indicate the period of deferment requested.

Rule 6.- Number, Size of Representation and Specimen

Number and size of graphic and real representation shall be filed as following:

1- The application shall be accompanied by the following:
a- if the industrial design is two-dimensional, by four graphic representations or four drawings or tracings; or

b- if the industrial design is three-dimensional, by four graphic representations or four drawings or tracings of each of the different sides of the industrial design; and

c- a printing block or printing blocks of such dimensions of which shall not exceed 17 centimeters x 26,2 centimeters.

2- A specimen shall be of a size not exceeding 20 centimeters x 20 centimeters x 20 centimeters. No graphic representation, drawing or tracing of the industrial design shall exceed 10 centimeters x 20 centimeters. Such representations, drawings or tracings, shall be affixed on four sheets of cardboard of A4 size. Drawings and tracings shall be in black ink.

Rule 7.- Language of Documents and Translations

- 1- Language of documents and translations shall be executed as following:
Applications and any document forming part of an application or any documents submitted to the Registration Department or the Registrar pursuant to the Law, this Declaration and Regulations concerned shall be in Khmer.
- 2- Where the applications and documents mentioned in the paragraph (1) of this Rule writing in Khmer or in Languages other than English shall translate in to English, for the purpose of searching and examination, and shall submit to the Registrar within six (6) moths from the filling date.
- 3- Where the applications and documents writing in Languages other than Khmer shall translate in to Khmer, for the purpose of judging, protection and law enforcement and shall submit to the Registrar within six (6) moths from the filling date.

Rule 8.- Indication of Name, Address, Nationality and Residence

- Indication of name, address, nationality and residence shall be executed as following:
- 1- Names of natural persons shall be indicated by the person's family name, given name(s) and address. The names of legal entities shall be indicated by their full, official designations.
 - 2- Nationality shall be indicated by the name of the State of which a person is a national. Legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.
 - 3- Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units, including the house number, if any. Addresses shall also indicate telephone numbers, facsimile number and E-mail address.
 - 4- Residence shall be indicated by the name of the State of which a person is a resident.
 - 5- Applicants for registration an industrial design shall provide address for contacting in the Kingdom of Cambodia to Registrar for the purpose of their application.

Rule 9.- Change of Name, Nationality and Address

- Change of name, nationality and address shall be executed as following:
- 1- Request by owners or applicants for registration of industrial design in order to change name, nationality, address or contact address recording to Industrial Design or Application for registration of own industrial design shall be in writing.
 - 2- Before acting on a request to alter a name or nationality, the Registrar may require such proof of the alteration as he thinks fit.
 - 3- If Registrar have examined that those requests are appropriate, the Registrar changes Industrial Design or the application of Industrial Design. In case of name, nationality and address have been recorded; the register have to record the change properly.

Rule 10.- Signature

- Signature shall be executed as following:
- 1- A document purporting to be signed for or on, behalf of a partnership shall contain the names of all Companies and the partners in full and shall be signed by all the or by any partner qualified to sign, stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document; a document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorized to sign the document and shall bear the seal of the body corporate; a document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he is duly authorized.
 - 2- The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

Rule 11.- Declaration of Priority

Declaration of priority of application for registration of industrial design in according with Article 100 of the Law shall be executed as following:

1- The declaration of priority referred to in Article 27 of the Law shall be made at the time of filing the application for industrial design and shall indicate:

- a- the date of filing of the earlier application;
- b- the number of the earlier application, subject to paragraph (2) of this Rule;
- c- the symbol of the International Industrial Design Classification which has been allocated to the earlier application, subject to paragraph (3) of this Rule;
- d- the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the State or States for which it was filed;
- e- where the earlier application is a regional or an international application, the Office which it was filed.

2- Where at the time of filing the declaration referred to in paragraph (1) of this Rule, the number of the earlier application is not known, that number shall be furnished within the period of three (3) months after the priority date.

3- Where a symbol of the International Classification of Industrial Design has not been allocated to the earlier application, or had not yet been allocated at the time of filing the declaration referred to in paragraph (1) of this Rule, the applicant shall state this fact in the said declaration and shall communicate such symbol as soon as it has been allocated.

4- The applicant may, at any time before the registration of industrial design, amend the contents of the declaration referred to in paragraph (1) of this Rule.

5- The period for furnishing the certified copy of the earlier application, referred to in Article 28 of the Law, shall be three (3) months from the date of the request by the Registrar; where a copy has already been furnished for another application, the applicant may respond by making a reference to that other application.

6- Where the earlier application is in a language other than Khmer, the applicant shall, within six (6) months from the date of the aforementioned request, furnish translation in Khmer of the earlier application.

7- Unless the Registrar requests otherwise, the earlier application and any translation thereof shall be filed in one (1) copy.

Rule 12.- Withdrawing and Amendment of Applications

Withdrawal and amendment of application shall be executed as following:

1- The application shall be withdrawn by written declaration submitted to the Registrar and signed by each applicant.

2- The fee related to the application shall not be refunded if the application is withdrawn.

3- Any amendment of application shall be in writing.

4- An industrial design application has been withdraw, abandoned or refused shall be subjected to the provisions of Article 4 (c) (4) of Paris Convention where appropriate.

Rule 13.- Numbering and Making Application

Numbering and making application shall be executed as following:

1- Up on receipt of the application, the Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters “KH”, slant “/”, the letter “ID”, slant “/”, the last two numbers of the year in which the initial papers were received, slant “/”, and a five-digit number allotted in the sequential order in which applications are received; where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for registration of industrial design (Form No. 1 ID).

2- The application number allotted under paragraph (1) of this Declaration shall be quoted in all subsequent communications concerning the application.

Rule 14.- Examination as to Form

After implementing as mentioned in Rule 13 of this Declaration shall be continuously executed as following:

1- The Registrar shall examine whether the application fulfills the requirements of Article 95 of the Law.

2- The invitation to file any correction, under paragraph 2 of Article 101 and Article 34 of the law, shall be in writing and shall specify the correction or corrections required and request that these be filed within two (2) months from the date of the invitation.

3-Once the Registrar accords a filing date, he shall notify the applicant in writing; if the application is treated as if it had not been filed, under Article 101 and Article 34 of the Law, the Registrar shall notify the applicant in writing, specifying the reasons.

4- Where the Registrar finds that the conditions set out in Article 89, Article 90, Article 93, Article 95 and Article 96 and the Regulations pertaining thereto are not fulfilled, he shall invite the applicant, in writing, to file the required correction within two (2) months from the date of the invitation, together with the payment of the prescribed fee; if the applicant does not comply with the invitation to correct a deficiency, or where, despite corrections submitted by the applicant, the Registrar is of the opinion that the said conditions are not fulfilled, he shall reject the application and notify the applicant, in writing, stating the reasons.

5- Refusal of the application shall not affect its filing date which shall remain valid.

6- The Registrar shall notify the applicant, in writing, of his decision to grant or to refuse the application, and, in the case of a decision to grant the application, he shall request the applicant to pay the registration and publication fee within one (1) month from the date of the notification.

Rule 15.- Registration of Industrial Designs

Registration of industrial design shall be executed as following:

1- Subject to the payment of the registration fee within the period prescribed in Rule 14(6), the Registrar shall register the industrial design in accordance with Article 103 of the Law and this Declaration.

2- The Registrar shall allot to each industrial design a number in the sequential order of registration.

3- The registration of an industrial design shall include a representation of the industrial design and shall specify:

a- the number of the industrial design;

b- the name and address of the registered owner;

c- the name and address of the agent, if any;

d- the name and address of the creator, except where he has asked not to be named in the registration;

e- if the priority has been claimed, and the claim has been accepted, the priority date and the country or countries in which or for which the earlier application was filed; and

f- the kind of products for which the industrial design is to be used.

4- The publication of the reference to the registration of an industrial design, under Article 103 of the Law, shall contain the particulars specified in paragraph (3) hereof.

Rule 16.- Renewal of Registration

Renewal of registration of industrial design shall be executed as following:

1- The renewal of the registration of an industrial design under Article 109 of the Law may be made by the registered owner or his agent during the six (6) month period preceding the expiry of the registration.

2- The renewal shall be made by payment of the renewal fee within the period specified in paragraph (1) hereof or, upon payment of the prescribed surcharge, within the grace period allowed under Article 109 of the Law.

3- The renewal of an industrial design registration shall be recorded and shall be published.

4- The Registrar shall issue to the registered owner a certificate of renewal which shall contain:

- a- the registration number of the industrial design;
- b- the date of renewal and the date of expiry;
- c- the name and address of the registered owner; and
- d- an indication of the kind of products for which the industrial design has been registered.

Rule 17.- Change in Ownership, License Contracts

Change in ownership, license contracts shall be executed as following:

1-The request, under Article 114 of the Law, for the recording of a change of ownership of industrial design under the Law or of an application there for shall be made to the Registrar on prescribed Form.

2- The publication of the change of ownership shall specify:

- a- the title of industrial design of protection concerned;
- b- the filing date, the priority date, if any, and the date of registration;
- c- the owner and the new owner; and
- d- the nature of the change of ownership.

3- A license contract submitted for recordal under Article 115 of the Law shall be subjected to the payment of prescribed fee.

Rule 18.- Agents

Agent shall be executed as following:

1- The appointment of an agent under Article 116 of the Law shall be appointed by a power of attorney which shall be signed by the applicant or, if there are more than one, by each applicant. The address of the agent shall, for all purposes connected with the Law and this Declaration, be treated as the address to which communications to the person or persons who appointed the agent shall be transmitted.

2-A power of attorney stating in paragraph (1) of this Rule shall accompany with application or shall submit within two (2) months from the filling date.

3- If the appointment of power of attorney is not made in accordance with paragraph (2) of this Rule and Article 116 of the Law, any procedural steps taken by the agent, other than the filling of application, shall be deemed not to have been taken.

4- Any requirement related to agent represented the applicant as provided in paragraph (1) of this Rule shall be prescribed by Ministry of Industry, Mines and Energy in separated provision.

Rule 19.- Excluded Day

When the last day for doing any act or taking any proceeding falls on a day when the Companies and the Registration Department is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the Office is next open for business.

Rule 20.- Extracts the Information and Corrections of Errors

Extracts the information and corrections of errors shall be executed as following:

1- Requests for certified copies of extracts from a Register or copies from documents shall be made to the Registrar in writing.

2- Corrections of errors, under Article 120 of the Law, may be made by the Registrar upon receipt of a request in writing and subject to such terms as he may consider appropriate, or on his own initiative. Corrections was made shall be communicated in writing to all interested persons, and, where considered necessary, shall be published by the Registrar.

Rule 21.- Hearing

Hearing shall be executed as following:

1- Before exercising adversely to any person any discretionary power given to the Registrar by the Law or this Declaration, the Registrar shall notify such person, in writing, of the opportunity to be heard thereon, and indicating a time limit, which shall not be less than one (1) month, for filing a

request for a hearing.

2- The request for a hearing shall be in writing.

3- Upon receiving such request, the Registrar shall give the person applying, and any other interested persons, at least two (2) weeks before hearing, in writing, of the date and time of the hearing.

Rule 22.- Service by Mail

Service by mail shall be as following:

1- Any notice, application or other document sent to the Registrar by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail. In proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.

2- Paragraph (1) of this Rule does not apply to the accordance of the filing date.

Rule 23.- Evidence

Evidence shall be executed as following:

1- Where under this Declaration, evidence maybe filed, it shall be by statutory declaration or affidavit.

2- The Registrar may, if he thinks fit, in any particular case, take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his affidavit or declaration.

Rule 24.- Statutory Declarations

Statutory Declarations shall be executed as following:

1- Any statutory declaration or affidavit filed under the Law or this Declaration shall be made before any officer authorized by law in any part of Cambodia to administer an oath for the purpose of any legal proceedings.

2- Statutory declarations or affidavits made outside Cambodia shall be made before official of Consulate or official of the Embassy of the Kingdom of Cambodia to those countries.

Rule 25.- Official Gazette

Particulars of industrial design and other proceedings under the Law and any other information required to be published under the Law or this Declaration and regulation shall be published, in accordance with the directions of the Registrar, in the Official Gazette.

Rule 26.- Fees

The fees to be paid for registration of industrial design under this Declaration shall be prescribed in inter-ministerial declaration of the Ministry of Economy and Finance and the Ministry Industry, Mines and Energy.

Rule 27.- Settlement of Dispute

The Department of Industrial Property shall have competent to establish the mechanism for settlement of dispute related to the registration of industrial design system.

Rule 28.- Cooperation

Department of Industrial Property shall cooperate with national, international organizations and concerning institutions for promoting the protection of industrial property and develop the registration of industrial design system.

SECTION 3 FINAL PROVISION

Rule 29.- Implementing Authorities

General Inspector of General Inspection, Director General of General Department of Industry, Chief of Cabinet, Director of Department of Administration, Director of Department of Personal,

Director of Accounting and Finance and Director of Department of Industrial Property shall have duty to implement this Declaration according to their competences.

Rule 30.- Entering into Force

This Declaration enters into force from the date of signing.

Signature

SUY SEM
Minister

CC:

- Council of Ministers
- Cabinet of Prime Minister
- Ministry of Foreign Affairs and International Cooperation
- Ministry of Economy and Finance
- The Council for Development of Cambodia
- Ministry of Commerce
- Ministry of Culture and Fine Arts
- Ministry of Information
- Ministry of Education, Youth and Sports
- Ministry of Health
- Ministry of Agriculture, Forestry and Fisheries
- Ministry of Justice
- Cambodian Royal Academy
- All General Departments under supervision of Ministry of Industry, Mines and Energy
- All Departments under supervision of Ministry of Industry, Mines and Energy
- All Provincial Departments of Industry, Mines and Energy
"for Information"
- As Rule 29 "for implementation"
- Document- Achievement