



M a l a w i

## Design Requirements

Membership of International Conventions:

- Paris Union (from 6 July 1964)
- WIPO (from 11 June 1970)
- ARIPO (from 25 April 1984)

Types of Designs available:

- Industrial Designs
- Textile Designs

Novelty Requirements:

A design must be new or original and in particular shall not be so registered in respect of any article if it is the same as a design which before the date of the application for registration appears on the Design register or has been published in Malawi in respect of the same or any other article or differs from such a design only in immaterial details or in features which are variants commonly used in trade.

An application for the registration of a design shall not be refused, and the registration of a design shall not be invalidated, by reason only of:

- The disclosure of the 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;
- The disclosure of the design in breach of good faith by any person other than the proprietor of the design;
- In the case of a new or original textile design intended for registration, the acceptance of a first and confidential order for goods bearing the design; or
- The communication of the design by the proprietor thereof to a Government department or to any person authorised by the Minister to consider the merits of the design, or of anything done in consequence of such a communication.

Novelty is not destroyed if an application is filed by the proprietor of an artistic work already protected under copyright law to register a corresponding design, provided no industrial use was made of the artistic work by the proprietor or with his consent, and provided the artistic work is not excluded from registration by the Designs Act.

Registrability:

“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 appeal to and are judged solely by the eye, 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.

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

“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.



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(continued)

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Designs to be applied to any of the following articles are excluded from registration, namely:

- Works of sculpture other than casts or models used or intended to be used as models or patterns to be multiplied by any industrial process;
- Wall plaques and medals; and
- Printed matter primarily of a literary or artistic character, including book jackets, calendars, certificates, coupons, dressmaking patterns, greeting cards, leaflets, maps, plans, postcards, stamps trade advertisements, trade forms, and cards, transfers and the like.

Filing Requirements:

- Power of Attorney (can be late filed).
- Drawings, photographs or graphic representations of the industrial design (required on the day of filing).
- Statement of the article to which the design is to be applied.
- Except in the case of an application to register a design to be applied to a textile article, to wallpaper or to lace, the application must be accompanied by a statement of the features of the design for which novelty is claimed.
- Certified copy of priority document, if priority claimed, with verified English translation (can be late filed within three months from filing).
- Assignment (can be late filed).

Substantive Examination:

Yes

Duration and Renewal:

Design registration is valid for an initial term of five years from the filing date, which is renewable upon payment of the required fees for two further terms of five years each. A grace period of three months is provided for late payment of renewal fees.

ARIPO design in which Malawi is designated:

Please see ARIPO