



SAINT CHRISTOPHER AND NEVIS

No. of 2025

A BILL to provide for the protection and registration of industrial designs in Saint Christopher and Nevis and for related matters.

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:

PART I PRELIMINARY

1. Short title.

(1) This Act may be cited as the Industrial Designs Act, 2025.

(2) This Act shall come into force on a day to be appointed by the Minister by Order published in the Gazette.

2. Interpretation.

In this Act, unless expressly stated otherwise

“complex product” means a product which is composed of multiple components which can be replaced permitting disassembly and re-assembly of the product;

“Court” means a Court of competent jurisdiction;

“Hague Agreement” means the Geneva Act (1999) of the Hague Agreement of International Registration of Industrial Designs administered by the World Intellectual Property Organization;

“Hague application” means an application for the registration of an industrial design that is filed with the International Bureau;

“industrial design” or “design” means the appearance of whole or part of a product resulting from features of, in particular, the shape, lines, contours, colors, texture or material of the product itself and/or its ornamentation;

“Intellectual Property Office” means the Intellectual Property Office of Saint Christopher and Nevis;

“International Bureau” means the International Bureau of the World Intellectual Property Organization that accepts international applications pursuant to the Hague Agreement;

“International Classification” means the classification according to the Locarno Agreement Establishing an International Classification for Industrial Designs, signed on October 8, 1968, as revised and amended;

“Minister” means the Minister with responsibility for the Intellectual Property Office;

“national application” means an application for the registration of an industrial design that is filed directly with the Intellectual Property Office;

“*Gazette*” means the official publication, either on paper or electronically, issued or authorized by the Government of Saint Christopher and Nevis that contains material required to be published by this Act;

“Paris Convention” means the Paris Convention for the Protection of Industrial Property, signed on March 20, 1883, as revised and amended;

“priority date” means the date of the earlier application that serves as the basis for the right of priority provided for in the Paris Convention;

“product” means any industrial or handicraft item, including inter alia parts intended to be assembled into a Complex product, packaging, get-up, graphic symbols and typographic typefaces, but excluding computer programs;

“Register” means the Register of Industrial Designs maintained by the Intellectual Property Office, whether in a physical or electronic format;

“Registrar” means the Registrar or any other Assistant Registrars of the Intellectual Property Office responsible for registering industrial designs;

“World Intellectual Property Organization” means the agency of the United Nations that specializes in intellectual property promotion and protection, founded pursuant to the 1967 Convention Establishing the World Intellectual Property Organization;

“World Trade Organization” means the intergovernmental organization that regulates international trade, founded in 1994 by the Marrakesh Agreement.

PART II

LEGAL PROTECTION AND EXCLUSION FROM PROTECTION

3. Requirements for Protection

- (1) A design shall be protected
 - (a) as an “unregistered design”, if it is made available to the public in the manner provided for in this Act;
 - (b) as a “registered design”, if it is registered in the manner provided for in this Act.
- (2) An independently created industrial design shall be protected to the extent that it is new and has individual character.
- (3) A design applied to or incorporated in a product which constitutes a component part of a Complex product shall only be considered to be new and to have individual character
 - (a) if the component part, once it has been incorporated into the Complex product, remains visible during normal use of the latter; and
 - (b) to the extent that those visible features of the component part fulfil in themselves the requirements as to novelty and individual character.
- (4) “Normal use” within the meaning of section 3(3)(a) shall mean use by the end user, excluding maintenance, servicing or repair work.
- (5) In relation to novelty
 - (a) an industrial design shall be considered to be new if no identical design has been made available to the public anywhere in the world,
 - (i) in case of a registered design, prior to the date of filing of the application for registration of the design for which protection is sought or, if priority is claimed, the date of priority; or
 - (ii) in the case of an unregistered design, prior to the date on which the design for which protection is claimed has first been made available to the public.
 - (b) designs shall be deemed to be identical if their features differ only in immaterial details.
- (6) In relation to individual character
 - (a) An industrial design shall be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public anywhere in the world,
 - (i) in the case of a registered design, prior to the date of filing of the application for registration of the design for which protection is sought or, if priority is

claimed, the date of priority; or

- (ii) in the case of an unregistered design, prior to the date on which the design for which protection is claimed has first been made available to the public.
- (b) In assessing individual character, the degree of freedom of the designer in developing the design shall be taken into consideration.

4. Disclosure and Grace Period for Filing in Case of Disclosure

- (1) For the purpose of determining novelty and individual character, a design shall be deemed to have been made available to the public before the date referred to in sections 3(5)(a)(i) and 3(6)(a)(i) or in sections 3(5)(a)(ii) and 3(6)(a)(ii), as the case may be, if it has been

- (a) published following registration or otherwise;
- (b) or exhibited in accordance with regulation made under this Act; or
- (c) used in trade or otherwise disclosed,

except where these events could not reasonably have become known in the normal course of business to the circles specialized in the sector concerned, operating within Saint Christopher and Nevis.

- (2) The design shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.
- (3) A disclosure to the public of an industrial design during a period of twelve months preceding the date of filing of the application or, if priority is claimed, the date of priority shall not prejudice to the novelty or individual character of the industrial design, where it was made

- (a) by the designer or their successor in title; or
- (b) by a person who obtained information about the industrial design directly or indirectly,

including as a result of an abuse, from the designer or their successor in title.

5. Matters Excluded from Protection

- (1) Protection under this Act shall not extend to designs dictated solely by technical or functional considerations.

(2) A design shall not subsist in features of appearance of a product which must necessarily be reproduced in their exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be mechanically connected to or placed in, around or against another product so that either product may perform its function.

(3) Notwithstanding section 5(2), a design shall under the conditions set out in Sections 3(5) and 3(6) subsist in a design serving the purpose of allowing the multiple assembly or connection of mutually interchangeable products within a modular system.

(4) An industrial design shall not be protected if it is contrary to public order or accepted principles of morality.

(5) An industrial design shall not be protected if it contains any of the matters listed in section 6ter of the Paris Convention.

PART III

ACQUISITION OF THE RIGHT; RIGHT TO FILE; REGISTRATION PROCEDURE

6. Acquisition of the Right; Right to File an Application for Registration; Naming of designer

(1) The rights to a registered industrial design in Saint Christopher and Nevis shall be acquired through a national application or a Hague application.

(2) The right to file an application for the registration of a registered industrial design shall belong to the designer or designers, or their successor or successors in title.

(3) Where two or more persons have jointly created an industrial design, the right to file an application for the registration of an industrial design shall belong to them jointly.

(4) The right to file an application for the registration of an industrial design may be assigned or transferred by succession. The person in whose name the application for registration is filed or, at a later stage, the person in whose name the industrial design is registered, shall be deemed to be the applicant or owner.

(5) Where an industrial design is created in execution of a contract of employment, the right to file an application for the registration of the industrial design shall belong to the employer, unless otherwise agreed in writing.

(6) The designer shall be named in the registration of an industrial design, unless, in a special written declaration signed by him or her and addressed to the Registrar, he or she indicates that they wish not to be named.

(7) Any promise or undertaking by the designer made to any person to the effect that they will make a declaration referred to in subsection (a) shall be without legal effect.

(8) If and to the extent to which two or more persons have created the same industrial design independently of each other, the person whose application for registration has the earliest filing date or, if priority is claimed, the earliest validly claimed priority date shall be entitled to the industrial design, as long as the said application is not withdrawn, surrendered, abandoned or rejected.

PART IV: NATIONAL APPLICATIONS FOR INDUSTRIAL DESIGNS

7. National Application for Registration

(1) A national application for the registration of an industrial design shall be filed with the Registrar in the prescribed form and shall contain:

- (a) a request for registration;
- (b) the name and address of the applicant;
- (c) a representation of the industrial design, suitable for electronic reproduction with a maximum of seven views, however, if the object of the application is a two-dimensional design and the application contains a request for deferment of publication, the representation of the design may be replaced by a specimen;
- (d) an indication of the product or products which incorporate the industrial design, or in relation to which the industrial design is to be used;
- (e) the classification of the products in which the design is intended to be incorporated or to which it is intended to be applied according to the International Classification.

(2) In addition, the application may contain

- (a) a description explaining the representation or the specimen;
- (b) a power of attorney identifying the name and address of a representative if the applicant has appointed one;
- (c) the citation of the designer or of the team of designers or a statement under the applicant's responsibility that the designer or the team of designers has waived the right to be cited;
- (d) a request for priority in accordance with section 8.

(3) The application for registration shall be subject to the payment of the prescribed fees.

(4) The application for registration may contain up to one hundred industrial designs, combined in one multiple application for a registered design in accordance with Regulation made under this Act on multiple designs.

(5) The application for registration may contain a request that the publication of the registration of the industrial design be deferred for a specified period, not exceeding thirty months from the date of filing of the application for registration of the industrial design for which protection is sought or, if priority is claimed, the date of priority.

(6) Upon such request in section 7(5), where the conditions for registration are satisfied, the design shall be registered, but neither the representation of the design nor any file relating to the application shall, subject to section 11(3), be open to public inspection.

8. Right of Priority

- (1) An application may contain a declaration, claiming, in accordance with the Paris Convention, the priority of one or more earlier applications duly filed for the same industrial design by the applicant or his predecessor in title in or for any State that is party to the Paris Convention or any member of the World Trade Organization and the period of priority shall be six months from the filing date of the earlier application and shall be computed in accordance with the provisions of Section 4 of the Paris Convention.
- (2) The effect of claiming of priority shall be that an application filed within the priority period shall not be refused or invalidated by reason of any acts accomplished during that period, in particular, another filing or the publication of the industrial design or putting on sales of copies of the industrial design, and such acts shall not give rise to any third party right or any right of personal possession.
- (3) The declaration claiming priority of the earlier application shall comply with the requirements prescribed in Regulations made under this Act.
- (4) If the conditions for the right of priority or the requirements for claiming priority have not been fulfilled, the declaration claiming priority shall be considered not to have been made.

9. Exhibition Priority

(1) If the application has disclosed a product which incorporates the industrial design, or in relation to which the industrial design is to be used at an official or officially recognized international exhibition held in a State that is party to the Paris Convention or any member of the World Trade Organization, he or she may claim a right of priority from the date of first disclosure of such product in the exhibition, if he or she files an application for registration of the industrial design within a period of six months from that date.

(2) An applicant who wishes to claim priority pursuant to subsection (1), under the requirements prescribed in Regulations made under this Act, must file evidence that he or she has disclosed at an exhibition the product which incorporate the industrial design, or in relation to which the industrial design is to be used.

(3) An exhibition priority granted in a third country does not extend the period of priority provided for in Section 7(1).

10. Filing Date

(1) The Registrar shall grant as the date of filing of an application for registration of an industrial design the date of receipt of the application, provided that, at the time of receipt, the application contains

(a) an express or implicit indication to the effect that the elements are intended to be an application for registration of an industrial design;

(b) indications allowing the identity of the applicant to be established; and

(c) a sufficiently clear representation of the industrial design for which registration is sought.

(2) The filing date of an application shall be assigned after the payment of the application fees in accordance with Regulations made under this Act and the proper completion of all other requirements under this Act.

11. Examination; Registration and Publication

(1) In relation to examination

(a) the Registrar shall examine whether the application for registration complies with the requirements under section 7 and Regulations pertaining thereto and whether the industrial design should be excluded pursuant to section 5.

(b) where the application does not comply with the requirements under section 7, the Registrar shall notify the applicant accordingly, requesting him or her to remedy the irregularity within the time limit prescribed in the Regulations.

(c) where the irregularity is not remedied in the prescribed time limit, the application shall be considered abandoned.

(d) where the industrial design does not comply with the definition under section 2 or it should be excluded pursuant to section 5, the Registrar shall refuse the application for registration and notify the applicant accordingly.

(e) an applicant whose application is refused by the Registrar may appeal to the Court.

(2) In relation to Registration and Publication

(a) subject to sections 11(1)(b) and (c), where the Registrar finds that the requirements

referred to in section 11(1)(a) are fulfilled, he or she shall register the industrial design, publish it in the manner provided for in the Regulations and issue a certificate of registration to the applicant.

- (b) where a request for deferment of publication of the registered design has been made under section 7(5), the Registrar shall publish such deferment and this publication of the deferment shall be accompanied by information identifying the holder of the registered design, the date of filing of the application and any other particulars prescribed by Regulations and no representation of the industrial design shall be open to public consultation or published, until the expiry of the period of deferment.
- (c) unless otherwise requested by the applicant, the Registrar shall not publish the industrial design until the expiry of the period of deferment.

(3) In relation to inspection of files

- (a) the files relating to applications for designs which have not yet been published or the files relating to designs which are subject to deferment of publication in accordance with section 7(5) or which, being subject to such deferment, have been surrendered before or on the expiry of that period, shall not be made available for inspection without the consent of the applicant or the right holder in the design.
- (b) any interested person who can establish a legitimate interest in an application or design may request the Registrar to inspect a file without the consent of the applicant or holder of the design prior to the publication or after the surrender of the latter in the case provided for in section 11(3)(a) and the interested person must prove that the applicant or the holder of the design has taken steps with a view to preventing him from establishing a right in the design.
- (c) the Registrar may refuse a request for inspection in section 11(3)(b), if the interested person fails to sufficiently establish a legitimate interest.
- (d) subsequent to the publication of the registered design, an application file may be inspected on request, however, where a file is inspected pursuant to section 11(3)(b) or (c), certain documents in the file may, at the sole discretion of the Registrar and in accordance with the Regulations, be withheld from inspection.

12. Amendment, Division, Withdrawal of the Application

- (1) An applicant may amend their application at any time before it is registered and an amendment shall not be accepted if it involves a change in or addition to any of the industrial

designs contained in the application for registration.

(2) In relation to division

- (a) an applicant may divide an initial application for registration at any time before it is registered in order to separate it into two or more divisional applications and the industrial designs contained in the initial application and a divisional application shall not be accepted if it involves a change in or addition to any of the industrial designs contained in the initial application.
- (b) Each divisional application shall preserve the filing date of the initial application and the benefit of the claim of priority, if applicable and after the division, each divisional application shall be independent.

(3) In relation to withdrawal, an applicant may, at any time before the registration of the industrial design, withdraw their application for registration, entirely or in respect of one or more industrial designs.

13. Surrender

(1) In relation to surrender, a right holder who wishes to surrender a registered design shall do so to the Registrar in writing and the surrender shall not be valid until it has been entered in the Register.

(2) If a design which is subject to deferment of publication is surrendered, it shall be deemed from the outset not to have had the effects specified in this Act.

(3) A design may be partially surrendered provided that its amended form complies with the requirements for protection and the identity of the design is retained.

(4) A design surrender shall be registered only with the agreement of the proprietor of a right entered in the register and if a license has been registered, the surrender shall be entered in the register only if the right holder in the design proves that he has informed the licensee of his intention to surrender and this entry shall be made on expiry of the period prescribed by the implementing regulation.

(5) If an action pursuant to section 6 relating to the acquisition of the right to a design is brought before a Court, the Registrar shall not enter the surrender in the register without the agreement of the claimant.

PART V – RIGHTS CONFERRED; LIMITATIONS; EXHAUSTION OF RIGHTS; RELATIONSHIP TO COPYRIGHT

14. Rights Conferred by Registration

(1) The owner of a protected industrial design shall have the right to prevent third parties not having the owner's consent from making, offering, selling, importing, stocking or using products bearing, or embodying the protected design when such acts are undertaken for commercial purposes, or unduly prejudice the normal exploitation of the design or are not compatible with fair trade practice.

(2) The protection of a registered industrial design shall extend to designs that produce on the informed user, the same overall impression as the registered design.

(3) The owner of an unregistered design shall only have the right to prevent the acts referred to in subsection (1) if the contested use results from copying the protected design and the contested use shall not be deemed to result from copying the protected design if it results from an independent work of creation by a designer who may be reasonably thought not to be familiar with the design made available to the public by the holder.

(4) Section 11(3) shall also apply to a registered design that is subject to deferment of publication as long as the relevant entries in the Register and the file have not been made available to the public.

15. Limitations; Exhaustion of Rights

(1) In relation to limitation, the rights conferred by a registered industrial design shall not be exercised in respect of

(a) the use of the industrial design in the body or gear of aircraft, land vehicles or vessels that temporarily or accidentally enter the jurisdiction of Saint Christopher and Nevis, or the importation of spare parts or accessories for the purpose of repairing such aircraft, vehicles or vessels and the execution of their repairs;

(b) acts done privately and for non-commercial purposes;

(c) acts done for experimental purposes;

(d) acts of reproduction for the purpose of making citations or for teaching purposes, provided that such acts are compatible with fair trade practice and do not unduly prejudice the normal exploitation of the industrial design, and that mention is made of the source.

(2) In relation to Exhaustion of Rights, the rights conferred by an industrial design shall not extend to acts relating to a product bearing or embodying the industrial design after the product has been put on the market anywhere in the world by the holder of the registered industrial design or with their consent.

16. Relationship to Copyright

Nothing in this Act shall prevent a registered industrial design from enjoying any protection to which it may be entitled under copyright law in Saint Christopher and Nevis, as from the date on which the design was created or fixed in any form.

PART VI TERM OF PROTECTION; RENEWAL

17. Term of Protection; Renewal

- (1) The registration of an industrial design shall be for a period of five years as from the date of filing of the application for registration.
- (2) The registration may be renewed for one or more consecutive periods of five years, up to a total of twenty-five years from the date of filing of the application for registration, upon payment of the prescribed fee and in compliance with the requirements prescribed in the Regulations.
- (3) A period of grace of six months following the expiration of the period of registration shall be allowed to renew the registration, upon payment of the prescribed surcharge.
- (4) A design which meets the requirements for protection shall be protected by an unregistered design for a period of three years as from the date on which the design was first made available to the public within Saint Christopher and Nevis.
- (5) For the purpose of section 16(3), a design shall be deemed to have been made available to the public within Saint Christopher and Nevis if it has been published, exhibited, used in trade or otherwise disclosed in such a way that, in the normal course of business, these events could reasonably have become known to the circles specialized in the sector concerned or operating within Saint Christopher and Nevis.
- (6) The unregistered design shall not, however, be deemed to have been made available to the public for the sole reason that it was disclosed to a third person under explicit or implicit conditions of confidentiality.

PART VII CHANGE IN OWNERSHIP; LICENSES; CORRECTION OF ERRORS

18. Change in Ownership

- (1) The Registrar shall record and publish any change in ownership of the registration of an industrial design or the application for registration of an industrial design, at the request of either the holder or the new owner of the registration or application.
- (2) The request to record a change in ownership shall comply with the requirements

prescribed in Regulations made under this Act.

- (3) A change in ownership of the registration or application shall have no effect against third parties until it has been recorded in the Register.

19. Licenses

- (1) A registered industrial design may be licensed.
- (2) The Registrar shall record any license concerning a registration of an industrial design or an application for registration at the request of either the licensor or the licensee. It shall publish a reference to any recording of a license.
- (3) The request to record a license shall comply with the requirements prescribed in Regulations.
- (4) A license concerning a registration of an industrial design or an application for registration shall have no effect against third parties until it has been recorded in the Register.

20. Correction of Errors

The Registrar may, at his or her sole discretion, correct any error of translation or transcription or any clerical error in any application for registration, registration or recording effected in the Register.

PART VIII INVALIDATION

21. Invalidation

- (1) Any interested person may, in an application to the Court or in a counterclaim in infringement proceedings, request the invalidation of the registration of an industrial design, either wholly or in part.
- (2) (a) The registration of an industrial design shall be declared invalid if it is established that:
- (i) the design does not correspond to the definition under Section 2;
 - (ii) the design does not fulfill the requirements of Sections 3 to 6;
 - (iii) another person is entitled to the design, wholly or jointly.
- (b) When the grounds for invalidation are established with respect to only one or some of the industrial designs included in the registration, invalidation shall be decided

accordingly.

- (3) Any invalidated registration of an industrial design, or part thereof, shall be regarded as null and void from the date of the registration and shall be deemed not to have had the effects specified in this Act or the Regulations.
- (4) If an industrial design has been applied for or registered in the name of a person who is not entitled to it under section 6, the person entitled to it under that provision may request the Court to transfer the registration of the industrial design to him or her or, alternatively, to declare invalid the registration.
- (5) Where a person is jointly entitled to an industrial design, that person may request the Court to have their name added as joint designer.
- (6) The successful party to the invalidation of a design proceedings shall notify the Registrar of any final decision of a Court on an action taken under this section.
- (7) The Registrar shall record the outcome of the invalidation proceedings in the Register and publish in accordance with Regulations made under this Act.
- (8) An unregistered design shall be declared invalid by a Court on application to such a Court or on the basis of a counterclaim in infringement proceedings.

PART IX: ENFORCEMENT OF RIGHT

22. Right to Information

- (1) The Court may order that information on the origin and distribution networks of the goods or services which infringe the design be provided by the infringer or any other person who was:
- (a) found in possession of the infringing goods on a commercial scale;
 - (b) found to be using the infringing services on a commercial scale;
 - (c) found to be providing on a commercial scale services used in infringing activities; or
 - (d) identified by the person referred to in subsections (1) (a), (b) or (c) as being involved in the production, manufacture or distribution of the goods or the provision of the services.
- (2) The information referred to in subsection (1) shall, as appropriate, comprise
- (a) the names and addresses of the producers, manufacturers, distributors, suppliers and other previous holders of the goods or services, as well as the intended wholesalers and retailers;
 - (b) information on the quantities produced, manufactured, delivered, received or ordered, as well as the price obtained for the goods or services in question.
- (3) Subsections (1) and (2) shall apply without prejudice to other statutory provisions which:

- (a) grant the right holder rights to receive fuller information;
- (b) govern the use in civil or criminal proceedings of the information communicated pursuant to this section;
- (c) govern responsibility for misuse of the right of information;
- (d) afford an opportunity for refusing to provide information which would force the person referred to in subsection (1) to admit to his own participation or that of his close relatives in an infringement of an intellectual property right; or
- (e) govern the protection of confidentiality of information sources or the processing of personal data.

23. Provisional and Precautionary Measures; Injunctions

- (1) The Court may:
 - (a) issue an interlocutory injunction intended to prevent any imminent infringement of the design;
 - (b) order an injunction or any other remedy available in law on the continuation of the alleged infringements of that design and subject the infringer, where appropriate, to a recurring penalty payment and make such continuation subject to guarantees intended to ensure the right holder is compensated where an infringement is determined.
- (2) An interlocutory injunction may also be issued, under the same conditions, against an intermediary whose services are being used by a third party to infringe a design.
- (3) An interlocutory injunction may also be issued to order the seizure or delivery up of the goods suspected of infringing a design so as to prevent their entry into or movement within channels of commerce.
- (4) In the case of an infringement committed on a commercial scale, and if the applicant demonstrates circumstances likely to endanger the recovery of damages, the Court may make orders which include:
 - (a) precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of their bank accounts and other assets;
 - (b) disclosure of bank, financial or commercial documents, or to grant appropriate access to the relevant information.
- (5) An interlocutory injunction may also be issued, under the same conditions, against an

intermediary whose services are being used by a third party to infringe a design.

- (6) An interlocutory injunction may also be issued to order the seizure or delivery up of the goods suspected of infringing a design so as to prevent their entry into or movement within channels of commerce.
- (7) In the case of an infringement committed on a commercial scale, and if the applicant demonstrates circumstances likely to endanger the recovery of damages, the Court may make orders which include
 - (c) precautionary seizure of the movable and immovable property of the alleged infringer, including the blocking of their bank accounts and other assets;
 - (d) disclosure of bank, financial or commercial documents, or to grant appropriate access to the relevant information.

24. Recall

The Court may order, at the request of the applicant and without prejudice to any damages due to the right holder by reason of the infringement, and without compensation of any sort, the recall, definitive removal from channels of commerce or destruction of goods that they have found to be infringing a design, at the expense of the infringer, unless particular reasons are invoked for not doing so.

25. Alternative measures

The Court may order pecuniary compensation to be paid to the injured party instead of applying other measures if the infringer acted unintentionally and without negligence, if execution of the measures in question would cause him disproportionate harm and if pecuniary compensation to the injured party appears reasonably satisfactory.

26. Damages

- (1) The Court may order the infringer to pay damages, taking into account all appropriate aspects including:
 - (a) the negative economic consequences, including lost profits, which the injured party has suffered,
 - (b) any unfair profits made by the infringer,
 - (c) in appropriate cases, elements other than economic factors;
- (2) As an alternative to subsection 25(1), the Court may, in appropriate cases, set the

damages as a lump sum on the basis of elements such as the least amount of royalties or fees which would have been due if the infringer had requested authorization to use the design in question.

- (3) Where the infringer did not know, or did not have reasonable grounds to know, that he, she or it was engaging in the infringing activity, the Court may order the recovery of profits or the payment of damages which may be pre-established.

27. Legal costs

The Court may order the unsuccessful party to bear the costs, unless equity requires that costs be allocated otherwise.

28. Publication of judicial decision

The Court may order, at the expense of the infringer, appropriate measures for the dissemination of the information concerning the decision, including displaying the decision and publishing it in full or in part or other additional publicity measures which are appropriate to the particular circumstances, including prominent advertising.

PART X: HAGUE APPLICATIONS FOR INDUSTRIAL DESIGNS

29. Application of provisions

(1) Unless otherwise specified in this Part or in the Hague Agreement, this Act shall apply, *mutatis mutandis*, to international registrations of industrial designs recorded in the International Register maintained by the International Bureau of the World Intellectual Property Organization, designating Saint Christopher and Nevis, under the Hague Agreement, following Saint Christopher and Nevis' accession to the Hague Agreement.

(2) Any recording concerning an international registration designating Saint Christopher and Nevis in the International Register shall have the same effect as if it had been made in the Register of designs filed before the Intellectual Property Office, and any publication of an international registration designating Saint Christopher and Nevis in the International Designs Bulletin of the International Bureau shall have the same effect as if it had been published in Saint Christopher and Nevis.

30. Effects of international registration designating Saint Christopher and Nevis

- (1) An international registration designating Saint Christopher and Nevis shall, from the date of its registration referred to in Article 10(2) of the Hague Agreement, have the same effect as an application for a registered national design.

- (2) If no refusal has been notified or if any such refusal has been withdrawn, the international registration of a design designating Saint Christopher and Nevis shall, from the date referred to in section 31(1), have the same effect as the registration of a design as a registered national design.

31. Refusal

- (1) The Intellectual Property Office of Saint Christopher and Nevis shall communicate a notification of refusal to the International Bureau not later than six months from the date of publication of the international registration, if in carrying out an examination of an international registration, the Intellectual Property Office of Saint Christopher and Nevis notices that the design for which protection is sought does not correspond with the definition of design as provided by this Act, or is contrary to public policy or to accepted principles of morality.
- (2) The notification shall state the grounds on which the refusal is based.
- (3) The effects of an international registration in Saint Christopher and Nevis shall not be refused before the holder has been allowed the opportunity of renouncing the international registration in respect of the national registered design or of submitting observations.

32. Invalidation of the effects of an international registration

- (1) The effects of an international registration in Saint Christopher and Nevis may be declared invalid partly or in whole by a Court on the basis of a counterclaim in infringement proceedings.
- (2) Where the Intellectual Property Office of Saint Christopher and Nevis is aware of the invalidation, it shall notify the International Bureau.

PART XI

GENERAL PROVISIONS

33. Organization of the Intellectual Property Office

- (1) The Intellectual Property Office shall be entrusted with all functions relating to the procedure for the registration of industrial designs and their administration as specified in this Act and the Regulations.
- (2) The Registrar may delegate his or her powers or responsibilities under this Act, except

the power of delegation conferred by this section, to any other officer in the Intellectual Property Office, as he or she deems fit.

34. Register; Gazette

- (1) The Intellectual Property Office shall maintain Register of Industrial Designs which shall contain all the information this Act or Regulations requires to be recorded.
 - (a) The Register may be consulted by any person, and any person may obtain extracts therefrom under the conditions prescribed in Regulations made under this Act.
 - (b) The Intellectual Property Office, with the permission of the Minister, may suspend the payment of fees to access the Register for specific periods of time or from a specific date until further notice.
 - (c) The Registrar shall publish a Practice Direction to inform the public where the payment of fees to access the Register have been suspended.
- (2) The Intellectual Property Office shall publish all the information which is prescribed to be published by this Act or the Regulations, in English in the Gazette.

35. Representation

For the purposes of any procedure before the Registrar, an applicant, holder, or other interested person who has neither a domicile nor a real and effective industrial or commercial establishment in Saint Christopher and Nevis shall appoint a representative, as prescribed in the Regulations.

36. Right to be heard

- (1) The Registrar shall give any party to a proceeding before it an opportunity of being heard before exercising adversely to that party any discretionary power vested in it by this Act or Regulations made under this Act.
- (2) Nothing in subsection 38(1) shall require the Registrar to hear the parties before deciding on the extension of time under this Act.

37. Extension of Time Limits

- (1) Unless otherwise provided in this Act, the Registrar may extend a time limit that is prescribed in the Regulations, for an action in a procedure before the Registrar, if a request to that effect is filed with the Registrar in accordance with the requirements prescribed in the Regulations, and the request is filed prior to the expiry of the time limit.
- (2) In respect of an action in a procedure before the Registrar for which the Registrar has already granted an extension of time limit, no further extension shall be granted.

38. Appeals

- (1) Any decision taken by the Registrar under this Act may be the subject of an appeal by any interested party before the Court.
- (2) The appeals and the corresponding statements of grounds of appeal shall be filed within two months as from the date of the notification or the date of publication of the decision.

39. Treaties to have the force of law

- (1) The provisions of the Hague Agreement shall have the force of law in Saint Christopher and Nevis.
- (2) The Minister may issue Regulations to give effect to any international treaties in respect of industrial designs that Saint Christopher and Nevis is a party.
- (3) Regulations to give effect to any international treaties in respect of industrial designs, that Saint Christopher and Nevis is or becomes a party to, shall be subject to negative resolution of the National Assembly.

40. Regulations; Practice Directions

- (1) The Minister may issue Regulations prescribing details for the implementation of this Act.
- (2) The Minister may issue Practice Directions to supplement administrative or procedural instructions relating to this Act and the Regulations.
- (3) Practice Directions shall be published before coming into effect.

41. Repeal

The United Kingdom Designs (Protection) Act, Cap 18.37 is hereby repealed.

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Lanein K. Blanchette
Speaker

No. of 2025.

Industrial Designs Bill, 2025

Saint Christopher
and Nevis.

Passed by the National Assembly this day of , 2025.

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Trevlyn Stapleton

Clerk of the National Assembly