

# **ARMENIA**

## **LAW ON PATENTS**

**(of October 26, 1999)**

### **CHAPTER I GENERAL PROVISIONS**

#### ***Objectives of the Law***

1. This Law shall govern the economic relationships and the non-economic personal relationships deriving from the creation, legal protection and use of inventions, utility models and industrial designs (hereinafter referred to as “industrial property subject matter”).

#### ***Industrial Property Legislation***

2.—(1) The economic relationships and the non-economic personal relationships deriving from the legal protection and use of inventions, utility models and industrial designs shall be governed by the Constitution of the Republic of Armenia, the Civil Code of the Republic of Armenia, this Law and other legislative instruments.

(2) Where alternative provisions are made by international agreements to which the Republic of Armenia is party, those provisions shall apply.

#### ***Patent Office of the Republic of Armenia***

3.—(1) In accordance with this Law, the Patent Office of the Republic of Armenia (hereinafter “the Office”) shall receive applications for the protection of industrial property subject matter, examine those applications, issue patents, publish texts concerning the implementation of this Law and public information, shall ensure

the legal protection of industrial property subject matter and carry out the other duties laid down by its statutes.

(2) The Office shall have an Appeals Board responsible for resolving disputes arising from the legal protection of industrial property subject matter.

(3) The activities of the Appeals Board shall be governed by Regulations approved by the Office.

### ***Legal Protection of Industrial Property Subject Matter***

4.—(1) The rights in inventions, utility models and industrial designs shall be protected by the law and attested to by a patent.

(2) A patent shall attest to the exclusive right to use the industrial property subject matter, the priority date of the subject matter, and authorship of the subject matter.

(3) The term of a patent for an invention shall be 20 years from the day on which the application is filed, if it is granted on the basis of a substantive examination of the invention (basic patent), or 10 years, if it is granted without a substantive examination of the invention (preparatory patent), a patent for an industrial design—15 years, and a patent for a utility model—10 years.

(4) The scope of legal protection afforded by a patent for an invention or a utility model shall be determined by the claims and the scope of legal protection afforded by a patent for an industrial design shall be determined by the sum of its essential features as shown in the photographs of the article (model or design) and which are listed in the description of the industrial design.

(5) The use of inventions, utility models and industrial designs that are considered secret by the State and the publication of any particulars concerning them shall be governed by provisions laid down in the legislation of the Republic of Armenia.

(6) No legal protection shall be afforded to inventions, utility models and industrial designs, the use of which is contrary to the public interest, to humane principles or to morality.

## **CHAPTER II CONDITIONS OF PATENTABILITY FOR INDUSTRIAL PROPERTY SUBJECT MATTER**

### ***Patentability Criteria for Inventions***

5.—(1) An invention shall enjoy the protection afforded by this Law if it is novel, involves an inventive step and is industrially applicable (patentability criteria for inventions).

(2) An invention shall be considered novel if it does not form part of the prior art.

(3) An invention shall involve an inventive step if it is not obvious to a person skilled in the art from the prior art.

(4) The prior art shall consist of any kind of information on technical solutions (individual parts), that has become generally available anywhere in the world prior to the day, month and year (hereinafter “the date”) of priority of the invention concerned. The prior art shall also include the subject matter of inventions and utility models with the earliest possible priority, and disclosed applications filed with the Office, provided that the Office subsequently publishes the applications in question or the patents granted on the basis thereof.

(5) Disclosure of the subject matter of an invention by the inventor (or applicant) or by any other person who has obtained the information directly or indirectly from the latter (the burden of proof of the foregoing shall be on the applicant) shall not affect patentability, provided that the information has been disclosed no earlier than 12 months prior to the filing date of the application or, where an earlier priority date is claimed, no earlier than 12 months prior to that date.

(6) An invention shall be industrially applicable if it can be made or used in industry, agriculture, public health or in other fields.

(7) The subject matter of an invention may be a device, process, substance, strain of a microorganism, strain of plant or animal cells, or also the use of a known device, process, substance or strain for a new purpose.

(8) The following shall not constitute patentable inventions:

1. scientific theories and mathematical methods;
2. methods of economic organization and management;
3. symbols, schedules and rules;
4. methods and rules for performing mental acts;
5. algorithms for computers;
6. projects and plans for structures and buildings and for land development;
7. proposals concerning the outward appearance of manufactured articles and intended to satisfy exclusively aesthetic requirements;
8. plant varieties and animal breeds.

### ***Conditions of Patentability for Utility Models***

6.—(1) Any novel industrially applicable solution that concerns the technical construction of means of production and consumer articles or parts thereof (patentability criteria for utility models) may enjoy the protection afforded by this Law to utility models.

(2) A utility model shall be considered novel if it does not form part of the prior art.

(3) The prior art shall consist of all generally available information published anywhere in the world before the priority date of the claimed utility model, with respect to means having the same purpose as the utility model, and of information on the application of such means in the Republic of Armenia. The prior art shall also include the subject matter of the inventions and utility models with the earliest priority date, disclosed in applications filed with the Office, provided that the Office subsequently publishes the applications in question or the patents granted on the basis thereof.

(4) Disclosure of the subject matter of a utility model by the creator (or applicant) or by any other person who has obtained the information directly or indirectly from the latter (the burden of proof of the foregoing shall be on the applicant) shall not affect patentability, provided that the disclosure took place no earlier than 12 months preceding the filing date of the application for the utility model or, if an earlier priority date is claimed, no earlier than 12 months preceding that date.

(5) A utility model shall be industrially applicable if it can be made or used in industry, agriculture, public health or in other fields.

(6) Processes, substances, strains of microorganisms, strains of plant or animal cells, their use for a new purpose and also the subject matter set out in Article 5(8) of this Law may not be protected as utility models.

### ***Conditions of Patentability for Industrial Designs***

7.—(1) Any artistic and technical solution defining the outward appearance of an article shall enjoy protection as an industrial design under this Law, if it is novel, original and industrially applicable (patentability criteria for industrial designs).

(2) An industrial design shall be novel if generally available information, of whatever kind, shows that the sum of its essential features determining the special aesthetic and/or functional aspects of the article in which it is embodied was not known anywhere in the world before the priority date of the design.

(3) Disclosure of the subject matter of an industrial design by the creator (or applicant) or by any other person who has obtained such information directly or indirectly from the latter (the burden of proof of the foregoing shall be on the applicant) shall not affect patentability, provided that the disclosure took place no earlier than six months preceding the filing date of the application for the industrial design or, where an earlier priority date is claimed, no earlier than six months preceding that date.

(4) An industrial design shall be considered original, if its essential features determine the creative nature of the special aesthetic aspects of the article in which it is embodied.

(5) An industrial design shall be considered industrially applicable, if it can be reproduced in multiple quantities by the manufacture of the corresponding article.

(6) The following shall not constitute patentable industrial designs:

1. solutions that are determined exclusively by the technical functions of the manufactured article;

2. solutions that relate to architectural works (with the exception of small-scale architectural forms) and industrial, hydraulic and other stationary structures;
3. printed matter as such;
4. solutions that relate to subject matter of unstable form such as liquids, gaseous and dry substances or the like.

### **CHAPTER III INVENTORS OF INDUSTRIAL PROPERTY SUBJECT MATTER AND PATENT OWNERS**

#### ***Inventors of Industrial Property Subject Matter***

**8.—(1)** The natural person whose creative work has resulted in an invention, utility model or industrial design shall be recognized as the author of the invention, utility model or industrial design.

(2) Where the industrial property subject matter is the result of the joint creative work of more than one natural person, those persons shall be recognized as the joint inventors. Relations between the joint inventors shall be determined by a contract concluded between them.

(3) Assistance of a non-creative nature, be it technical or organizational help, assistance with the formulation of rights and so on, in producing the invention, utility model or industrial design shall not affect joint authorship.

(4) The right of authorship shall be inalienable and shall be a non-transferable personal immaterial right which is valid on a permanent basis.

(5) An inventor shall have the right not to be mentioned as such in any information published with respect to the patent.

(6) An inventor shall be entitled to give a name to industrial property subject matter he has created.

#### ***Patent Owners of Industrial Property Subject Matter***

**9.—(1)** A patent for an invention, utility model or industrial design shall be granted to the inventor (or joint inventors) or to their heirs, the employer or to any other natural or legal persons (patent owner); in the latter case, a contract shall have been concluded between the inventor or joint inventors and the person concerned, and that person shall have been designated by the inventor or inventors or their successors in title in the patent application filed with the Office or in a declaration filed with the Office prior to State registration of the invention, utility model or industrial design.

(2) A patent for an invention, utility model or industrial design (service invention, utility model or industrial design), created by an employee as part of his professional duties or tasks set by the employer, shall be granted to the employer if appropriate provision is made by the contract concluded between them.

(3) The level, conditions and procedure for payment of remuneration to the inventor of a service invention, utility model or industrial design shall be determined by agreement between the inventor and the employer and, in the absence of agreement, by a court decision.

(4) The employee shall be required to inform the employer in writing, within one month of the date of the invention, of any invention made or any utility model or industrial design created in relation to the employee's duties.

(5) If, within a period of three months of the date on which the employee has informed the employer of the invention that has been made, or of the utility model or industrial design that has been created, the employer or his successor in title has not filed an application for a patent with the Office, the right to file an application and to grant a patent shall belong to the inventor.

(6) In this case, the employer shall enjoy the pre-emptive right to receive a simple license for using the object in question.

#### ***Transfer by Succession of the Rights of the Inventor and of the Industrial Property Patent Owner***

10. The right to file an application and to obtain a patent, the exclusive right to use an invention, utility model or industrial design, and the right to remuneration for such use shall be transferred by succession as stipulated by law.

### **CHAPTER IV EXCLUSIVE RIGHT TO USE INDUSTRIAL PROPERTY SUBJECT MATTER**

#### ***Rights and Obligations of Patent Owners***

11.—(1) A patent shall afford its owner the exclusive right to prohibit third parties from using industrial property subject matter protected by the patent without his permission and also to use as he sees fit, if this does not infringe the rights of other patent owners.

(2) The exclusive right of the patent owner shall take effect from the day of official publication of information on the grant of the patent.

(3) Where there are two or more joint owners, the relations concerning use of the industrial property subject matter shall be governed by a contract concluded between those persons. In the absence of such a contract, each of the owners may

use the protected subject matter as he wishes, but shall not be entitled to assign the patent to other persons nor to authorize (grant a license) to use the protected subject matter without the consent of the remaining owners.

(4) Use of the protected subject matter without the patent owner's authorization shall, except in the cases provided for by this Law, be considered to infringe the patent owner's exclusive right.

(5) A patent owner may assign his patent to any other natural or legal person. The patent assignment contract shall be registered with the Office. A contract that has not been registered shall have no legal effect.

### ***Use of Industrial Property Subject Matter***

**12.—**(1) Use of industrial property subject matter shall be considered to include the manufacture, application, offer for sale, sale, storage, import and other actions relating to the introduction into the economy of products containing the subject matter, as well as the use of the process protected by the patent.

(2) The product (article) shall be considered to contain the patented invention or utility model, if it comprises each feature of the independent claim of the invention, utility model or feature equivalent thereto.

(3) The process protected by the patent shall be considered to have been used, provided that each feature of the independent claim of the invention or industrial model, or feature equivalent thereto, is used in the process.

(4) An article shall be considered to contain a patented industrial design, if all the essential features of the design are used in the article.

(5) The validity of the patent for the process of obtaining the products shall also extend to the products obtained directly by this process. In that regard, the products shall be considered to have been obtained by the patented process, if it is not shown that they are obtained by a different method. In this case, the burden of proof shall be placed on the applicant if the products obtained by the patented process are novel.

### ***Actions not Considered to Infringe a Patent Owner's Exclusive Right***

**13.—**(1) The use of industrial property subject matter protected by a patent shall not be considered to infringe a patent owner's exclusive right:

1. as the subject of a scientific experiment or scientific research
2. for the single preparation of medicines in pharmacies according to a doctor's prescription;
3. on any vehicle belonging to another State and inadvertently or temporarily located on the territory of the Republic of Armenia, if it is determined exclusively by the needs of the vehicle and the latter belongs to the citizens and/or legal persons of

a State providing the same rights to citizens and legal persons of the Republic of Armenia;

4. for personal needs with no intention of generating an income;

5. if the products obtained by using the process containing industrial property subject matter protected by a patent, or a process protected by a patent has been introduced into the Republic of Armenia according to the law by the patent owner himself or with his consent.

(2) Nor shall the import onto the territory of the Republic of Armenia of products obtained by using the process containing the industrial property subject matter, or the process, protected by the patent be considered to infringe the patent owner's exclusive right, if the products are made available in another country by means of sale, according to the law, and by the patent owner or with his consent.

### ***Right of Prior Use***

**14.—**(1) Any natural or legal person who, before the priority date of the industrial property subject matter, had conceived independently of the inventor and was using on the territory of the Republic of Armenia an identical solution or who had made the necessary preparations for such use, shall retain the right to continue such use free of charge, provided that the scope thereof is not extended (right of prior use).

(2) The right of prior use shall be transferred to another natural or legal person only together with the production unit in which the use of the identical solution has taken place or the necessary preparations for such use have been made.

### ***Provision of the Right to Use Industrial Property Subject Matter***

**15.—**(1) Use of patented industrial property subject matter by any other person shall be lawful only with the authorization of the patent owner, on the basis of a license contract.

(2) Under a license contract, the patent owner (licensor) shall grant, within the limits specified in the contract, the right to use the patented subject matter to another person (licensee) who shall undertake to pay to the licensor the amounts and to perform the other acts stipulated in the contract.

(3) An exclusive license shall afford the licensee the exclusive right to use the industrial property subject matter within the limits specified in the contract, beyond which the licensor shall retain his right to use the part of the subject matter not assigned to the licensee.

(4) A non-exclusive license shall allow the licensor, while granting the licensee the right to use the industrial property subject matter, to retain all the rights deriving from the patent, including the right to grant licenses to third parties.

(5) The patent owner may request the Office to publish a notice to the effect that he is willing to grant other persons the right to use the industrial property subject matter (license of right). The patent renewal fee shall be reduced as from the year

following publication of the notice. Any person wishing to obtain a license of right shall be required to conclude a contract with the patent owner with respect to the royalties. The declaration by the patent owner in respect of licenses of right may not be withdrawn.

(6) A license contract that has not been registered with the Office shall have no legal effect.

(7) Any dispute relating to non-compliance with the contract shall be heard by the courts.

### ***Compulsory Licenses***

**16.**—(1) In the interests of the national security of the Republic of Armenia and society, in exceptional circumstances and also for the non-commercial use by the State of an invention, utility model or industrial design, the Government of the Republic of Armenia may use, or authorize third parties to use, the invention, model or design, without the consent of the patent owner (compulsory license), and shall inform the patent owner accordingly within 10 days and shall pay him appropriate financial compensation, taking into account the circumstances of each case and the economic value of such authorization.

(2) If, during the four years following the filing date of an application, or three years of the grant of the patent (the latest deadline shall apply), an invention, utility model or industrial design are not used or are insufficiently used, any person who, on the expiry of such a term, wishes to use the invention, utility model or industrial design, that has not succeeded in concluding a license contract with the patent owner, may request the Government of the Republic of Armenia to grant a compulsory non-exclusive license. A license shall be granted if the patent owner cannot give good reasons for the insufficient use or lack of use of the invention, utility model or industrial design.

(3) If an invention, utility model or industrial design protected by a patent is of great economic value, they may not be used without infringing the rights of the patent owner to another invention, utility model or industrial design protected by a patent (“first patent”), the patent owner in question (“second patent”) may, where an agreement is not reached regarding the conclusion of a license contract, request the Government of the Republic of Armenia to grant him a compulsory license. Where the request made by the patent owner of the “first patent” is satisfied, he shall have the right to receive in return a compulsory license for use of the subject matter protected by the “second patent.” The patent owner may assign in return the right acquired according to the compulsory license to another person only together with the rights deriving from his patent.

(4) A compulsory license may only be non-exclusive and shall be granted, depending on its purpose, for a specific period and subject to particular conditions, basically to satisfy domestic market demand.

(5) In the case of semiconductor technologies, a compulsory license may be granted only by the State—for non-commercial use and also judicial or administrative authorities—for correcting anti-competitive practices.

(6) A person who has obtained a compulsory license may assign the right to use industrial property subject matter only together with the part of the organization in which use of the subject matter in question takes place.

(7) A compulsory license shall be recognized as being no longer in force if, at the time it is concluded by the competent authority, the circumstances which gave rise to the license are considered to have lapsed and the probability that they will recur is small. In that regard, the legal interests of the persons who have obtained the compulsory license shall be taken into account and shall be protected. In the case of substantiated requests, the authority in question may examine the issue of whether the relevant circumstances continue to exist.

(8) Disputes relating to the grant of a compulsory license, as well as the relevant levels, procedure and periods of payment shall be settled by the courts.

(9) The conditions for the provision of a compulsory license shall be regulated according to the procedure established by the Government of the Republic of Armenia.

### ***Infringement of a Patent***

17.—(1) Any natural or legal person who uses industrial property subject matter protected by a patent in a manner contrary to this Law shall be deemed to infringe the patent.

(2) At the request of the patent owner or of an exclusive licensee, where the license contract does not provide otherwise, or at the request of a non-exclusive licensee, if this is stipulated by the license agreement, infringement of the patent shall cease and the natural or legal person committing the infringement shall compensate the patent owner for the losses sustained in accordance with the legislation of the Republic of Armenia.

## **CHAPTER V PATENTABILITY OF INDUSTRIAL PROPERTY SUBJECT MATTER**

### ***Patent Application Documents***

18.—(1) Patent application documents shall be filed with the Office by the inventor, employer or their successor in title (the applicant).

(2) The request for the grant of a patent shall be filed in Armenian.

(3) The other application documents may be filed in another language. In such a case, they shall be translated into Armenian and shall:

1. be attached to the application documents by applicants from the Republic of Armenia;

2. be filed by foreign applicants with the Office within two months of the filing date.

(4) The application may be filed through a patent agent registered with the Office.

(5) Natural persons domiciled outside the Republic of Armenia and foreign legal persons who wish to obtain a patent for an invention, utility model or industrial design and to maintain it in force shall act through patent agents registered with the Office.

(6) The patent agent's authorization to act shall be attested to by a power of attorney granted to him by the applicant.

(7) The activities of patent agents shall be governed by an order of the Government of the Republic of Armenia.

(8) The procedure for registering patent agents shall be laid down by the Office.

### ***Applications for Inventions***

**19.**—(1) An application for an invention shall relate to one invention or to a number of inventions so linked as to form a single inventive concept (requirement of unity of invention).

(2) An application for an invention shall contain:

1. a request for the grant of a patent, stating the names of the invention, the applicant(s) and inventor(s), together with their domicile or place of business;

2. a description setting out the invention in sufficient detail for it to be carried out;

3. one or more claims defining the subject matter of the invention and fully supported by the description;

4. drawings and other materials, where necessary for the understanding of the subject matter of the invention;

5. a short summary of the invention (an abstract).

(3) An application for an invention shall be accompanied by proof of payment of the prescribed fee.

(4) The requirements for invention application documents shall be determined by the Office.

### ***Applications for Utility Models***

**20.**—(1) An application for a utility model shall relate to one utility model or to a number of utility models so linked as to form a single inventive concept (requirement of unity of utility model).

(2) An application for a utility model shall contain:

1. a request for the grant of a patent, stating the names of the utility model, the applicant(s) and inventor(s), together with their domicile and place of business;
2. a description setting out the utility model in sufficient detail for it to be carried out;
3. one or more claims defining the subject matter of the utility model and fully supported by the description;
4. drawings and other materials, where necessary for the understanding of the subject matter of the utility model;
5. a short summary of the utility model (an abstract).

(3) An application for a utility model shall be accompanied by proof of payment of the prescribed fee.

(4) The requirements for utility model application documents shall be determined by the Office.

### ***Applications for Industrial Designs***

**21.**—(1) An application for an industrial design shall relate to one design and may include alternatives to the design (requirement of unity of industrial design).

(2) An application for an industrial design shall contain:

1. a request for the grant of a patent, stating the names of the design, the applicant(s) and the inventor(s), together with their domicile and place of business;
2. a description of the industrial design, including a list of its essential features;
3. a set of photographs of the manufactured article, the model or the design, constituting a full and detailed representation of the outward appearance of the article;
4. a representation of the series of components of the article, an assembly diagram or an overall view of the manufactured article, where necessary for the understanding of the subject matter of the industrial design.

(3) An application for an industrial design shall be accompanied by proof of payment of the prescribed fee.

(4) The requirements for industrial design application documents shall be determined by the Office.

## ***Priority of Industrial Property Subject Matter***

**22.**—(1) The priority of an invention, utility model or industrial design shall be determined in accordance with the date on which the patent application is filed with the Office. The Office shall accord the filing date as per the date on which it receives the application, if:

1. the application for the invention (utility model) contains at least the name (title) of the applicant, a request for the grant of a patent and materials constituting claims and a description of the invention (utility model);

2. the application for the industrial design contains at least the name (title) of the applicant, a request for the grant of a patent and materials constituting photographs and a description of the industrial design.

(2) Priority may be determined in accordance with the filing date of an initial application in one of the States parties to the Paris Convention for the Protection of Industrial Property (convention priority), if the Office receives the application for the invention (utility model) within a period of 12 months and, in the case of an industrial design, within six months, starting from that date. An applicant who wishes to enjoy convention priority shall state the fact when filing the application or within two months of the date on which the application is received by the Office, and shall attach a copy of the original application or submit it within three months of the date on which the application is received by the Office.

(3) Priority may be determined in accordance with the date on which additional materials are received, if such material is submitted as a new application and is filed within three months of the date on which the applicant received notification of the fact that the additional materials would not be taken into consideration, since they modified the subject matter of the solution described in the original application materials.

(4) Priority may be determined in accordance with the date of receipt of an earlier application by the same applicant that discloses the subject matter of the same invention, utility model or industrial design, provided that the application claiming such priority reached the Office within a period of 12 months of the registration date of the earlier application. In such cases, the earlier application shall be deemed withdrawn.

(5) Priority may be determined on the basis of more than one earlier application if the procedure set out in paragraph (4) of this article is complied with in relation to each relevant application.

(6) The priority of an application may not be determined on the basis of the date of receipt of an application in which an earlier priority is already claimed.

(7) The priority of an invention, utility model or industrial design, the application for which has been filed following its division from the original application (divisional application), shall be determined according to the date of receipt of the original application, if the divisional application has been received prior to the decision not to grant a patent for the original application and, where a decision is taken to grant a patent, not later than the State registration of the industrial property subject matter.

(8) Where it is found during examination that identical inventions, utility models or industrial designs have the same priority date, a patent may be granted for the

application that is proved to have been sent first to the Office. Where those dates coincide, a single patent shall be granted to the applicants with their consent. In the absence of agreement, the matter shall be settled by the courts.

### ***Preliminary Examinations of Applications for Inventions***

**23.**—(1) The preliminary examination of an application for an invention shall be carried out by the Office within two months of the application filing date, in accordance with this article and the procedure established thereby.

(2) The preliminary examination shall include verification that the requisite application documents have been filed in accordance with the established requirements, and it shall be clarified whether the filed invention meets the requirements of Article 4(6), Article 5(7) and (8), and Article 19(1) of this Law, with no assessment of the economic viability of the invention.

(3) If, as a result of the preliminary examination, it is ascertained that the application documents meet the established requirements, the Office shall decide whether to publish the application officially.

(4) If it is ascertained that the application does not meet the established requirements, a request shall be sent to the applicant to submit the corrected or missing documents within two months.

(5) If the application has been filed without respecting the requirement of unity, the applicant shall be invited to state, within two months, which of the inventions shall be examined and to make the necessary clarifications to the application documents.

(6) If, within the period indicated, the applicant does not respond to the notification that he has infringed the requirement of unity, the invention cited first in the claims shall be examined.

(7) During the preliminary examination an applicant may, at his own initiative or if invited to do so, make corrections or clarifications to the application by submitting additional elements, provided such elements do not modify the subject matter of the invention as claimed, if at the time the application is filed he has not renounced this right. The additional elements shall be held to amend the subject matter of the invention if they contain features that were not contained in the application as originally filed but which should be included in the claims. Any additional elements that modify the subject matter of the invention as claimed shall not be taken into consideration for the purposes of the examination and the applicant may submit them as a separate application.

(8) If the additional or revised elements are not submitted within two months, in accordance with the examination request, the application shall be deemed to have been withdrawn.

(9) If, as a result of the preliminary examination, it is ascertained that the filed invention relates to Article 4(6) or Article 5(8) of this Law, a decision shall be taken to reject the grant of a patent.

(10) If the applicant does not agree with the examiner's decision not to grant a patent, he may submit to the Office a request for re-examination within two months of

the date of receipt of the decision. The application shall be re-examined within one month of the date of receipt of the request.

(11) According to the results of the re-examination, the Office shall decide whether to refuse to grant a preliminary patent or to publish the application officially.

(12) If the applicant does not agree with the decision taken as a result of the re-examination, he may, within two months of receiving it, contest the decision before the Office Appeals Board. The Appeals Board shall examine the appeal within two months of receiving it.

(13) If the applicant does not agree with the decision taken following re-examination or with that given by the Appeals Board, he may, in accordance with the requisite legal procedure, apply to the courts.

### ***Official Publication and Submission for Universal Disclosure of Applications for Inventions***

**24.**—(1) The Office shall, on the basis of a decision regarding the official publication of an application for an invention, publish information on the application in its official journal.

(2) The full content of the published information shall be determined by the Office.

(3) An application together with attachments shall be submitted for universal disclosure for a period of four months following the date of official publication of information on the application for an invention.

### ***Appeals***

**25.**—(1) Any person may, in the course of universal disclosure of an application for an invention, lodge a reasoned appeal against the grant of a patent for the application in question.

(2) An appeal against the grant of a patent shall be lodged with the Office not later than the four-month period allotted for universal disclosure.

(3) The procedure for formulating, lodging and examining an appeal shall be determined by the Office.

(4) The Office shall, within 10 days of receiving the appeal, send the applicant a copy thereof and shall propose that the applicant submits any relevant comments within one month.

## ***Examination of Appeals***

**26.**—(1) During universal disclosure the Office shall, when receiving an appeal against the grant of a patent following expiry of the period of such disclosure, or within one month of the applicant submitting his comments in accordance with Article 25(4) of this Law, whichever is the later, and taking into account the information available to it testifying to the clear infringement of the patentability criteria for an invention, examine the appeals lodged and shall decide whether or not to grant a preliminary patent.

(2) The applicant shall be informed within 10 days of any decision taken by the Office.

(3) Where the applicant does not agree with a decision taken by the Office, he may, within two months of the date on which he receives the decision, request a re-examination to be carried out. The re-examination shall take place within one month of the date of receipt of the request.

(4) According to the results of the re-examination, the Office shall decide whether to grant, or to refuse to grant, a preliminary patent.

(5) The applicant and the person lodging the appeal shall be informed of the Office's decision within 10 days.

(6) Where the applicant does not agree with the decision taken following re-examination, he may, within two months of receiving the decision, lodge an appeal with the Office Appeals Board. The Appeals Board shall examine the appeal within two months of receiving it.

(7) Where the applicant does not agree with the decision taken following re-examination or with that given by the Appeals Board, he may, in accordance with the requisite legal procedure, apply to the courts.

(8) Where no appeal is lodged against the grant of a patent, upon expiry of the period of universal disclosure, the Office shall, in accordance with the established legal procedure and within 10 days, decide to grant a preliminary patent.

(9) A preliminary patent shall be granted subject to the applicant's responsibility and with no guarantee of its validity.

## ***Substantive Examination of Inventions***

**27.**—(1) On the basis of a request by an applicant or a third party, which may be submitted up to seven years after the application has been received, the Office shall carry out a substantive examination and shall report on whether compliance has been achieved with the patentability criteria established by Article 5(2), (3) and (6) of this Law.

(2) The request may also be submitted within 12 months of the expiry of the period in question, provided that an additional fee is paid.

(3) The Office shall inform the applicant of any request received from a third party.

(4) The Office shall inform the applicant and the third party referred to within 10 days of any report given as the result of a substantive examination, if the examination has been carried out on the basis of their request.

(5) Where the applicant and the third party do not agree with the Office's report, they shall, within two months of receiving the report, request a re-examination to be carried out. The re-examination shall be carried out within one month of receipt of the request.

(6) According to the results of the re-examination, the Office shall give a second report, of which the applicant and the third party shall be informed within 10 days, if the substantive examination has been carried out on the basis of their request.

(7) On the basis of the applicant's request, which may be submitted within three months of the date on which the report is received, the Office shall, taking into account the report it has made, take an appropriate decision on whether to grant the basic patent and shall, within 10 days, inform the applicant accordingly. In this connection, the preliminary patent shall cease to be valid from the day of official publication of information on the grant of the basic patent.

(8) Where the applicant does not agree with the Office's decision, he may, within two months of the date of its receipt, lodge an appeal with the Office Appeals Board. The Appeals Board shall examine the appeal within two months of receiving it.

(9) Where the applicant does not agree with a decision taken by the Office or the Appeals Board, he may, in accordance with the requisite legal procedure, apply to the courts.

(10) The procedure for carrying out the substantive examination of the invention shall be determined by the Office.

### ***Temporary Legal Protection for Inventions***

**28.—**(1) Temporary legal protection shall be granted for an invention, from the day of official publication of the application for the invention until the day of official publication of information on the granted patent, to cover the scope of the claims filed for universal disclosure.

(2) Temporary legal protection shall be considered not to have been granted, if the possibilities for appeal against a decision of the Office to refuse to grant a patent have been exhausted.

(3) Third parties that have used an invention for the period indicated in paragraph (1) of this article shall pay the patent owner appropriate monetary compensation for such use. The level of compensation shall be determined by agreement between the parties. Where such an agreement does not exist, the matter shall be settled by the courts.

(4) The period indicated in paragraph (1) of this article may begin from the day on which the applicant informs the persons using the claimed invention accordingly, if this day precedes the day of official publication of the application for the invention.

### ***Examination of Utility Model Applications***

**29.**—(1) A utility model application shall be examined by the Office within two months of the date of its receipt, in accordance with this article and the procedure established thereby.

(2) The examination shall include verification that the requisite application documents have been filed in accordance with the established requirements, and it shall be clarified whether the filed utility model meets the requirements of Article 4(6), Article 6(6), and Article 20(1) of this Law, with no assessment of the economic viability of the utility model.

(3) If, as a result of the examination, the Office ascertains that the application meets the established requirements, a decision shall be taken to grant a utility model patent.

(4) If it is ascertained that the application does not meet the established requirements, a request shall be sent to the applicant to submit the corrected or missing documents within two months.

(5) If the application has been filed without respecting the requirement of unity, the applicant shall be invited to state, within two months, which of the utility models shall be examined and to make the necessary clarifications to the application documents.

(6) If, within the period indicated, the applicant does not respond to the notification that he has infringed the requirement of unity, the utility model cited first in the claims shall be examined.

(7) During the examination an applicant may, at his own initiative or if invited to do so, make corrections or clarifications to the application by submitting additional elements, provided such elements do not modify the subject matter of the utility model as claimed, if at the time the application is filed he has not renounced this right. The additional elements shall be held to amend the subject matter of the utility model if they contain features that were not contained in the application as originally filed but which should be included in the claims. Any additional elements that modify the subject matter of the utility model as claimed shall not be taken into consideration for the purposes of the examination and the applicant may submit them as a separate application.

(8) If the additional or revised elements are not submitted within two months, in accordance with the examiner's request, the application shall be deemed to have been withdrawn.

(9) If, as a result of the examination, it is ascertained that the filed utility model relates to Article 4(6) or Article 6(6) of this Law, a decision shall be taken to reject the grant of a patent.

(10) If the applicant does not agree with the examiner's decision, he may submit to the Office a request for re-examination within two months of the date of receipt of the decision. The application shall be re-examined within one month of the date of receipt of the request.

(11) According to the results of the re-examination, the Office shall decide whether to grant a utility model patent or to refuse to grant such a patent.

(12) The patent shall be granted subject to the applicant's responsibility with no guarantee of its validity.

(13) If the applicant does not agree with the decision taken following re-examination, he may, within two months of receiving the decision, appeal to the Office Appeals Board. The Appeals Board shall examine the appeal within two months of receiving it.

(14) Where the applicant does not agree with the decision taken following re-examination or that given by the Appeals Board, he may apply to the courts in accordance with the requisite legal procedure.

### ***Examination of Applications for Industrial Designs***

**30.**—(1) An industrial design application shall be examined by the Office within two months of the date of its receipt, in accordance with this article and the procedure established thereby.

(2) The examination shall include verification that the requisite application documents have been filed in accordance with the established requirements, and it shall be clarified whether the filed industrial design meets the requirements of Article 4(6), Article 7(7), and Article 21(1) of this Law, with no assessment of the economic viability of the industrial design.

(3) If, as a result of the examination, the Office ascertains that the application meets the established requirements, a decision shall be taken to grant an industrial design patent.

(4) If it is ascertained that the application does not meet the established requirements, a request shall be sent to the applicant to submit the corrected or missing documents within two months.

(5) If the application has been filed without respecting the requirement of unity, the applicant shall be invited to state, within two months, which of the industrial designs shall be examined and to make the necessary clarifications to the application documents.

(6) If, within the period indicated, the applicant does not respond to the notification that he has infringed the requirement of unity, the industrial design cited first in the description shall be examined.

(7) During the examination an applicant may, at his own initiative or if invited to do so, make corrections or clarifications to the application by submitting additional elements, provided such elements do not modify the subject matter of the industrial design as claimed, if at the time the application is filed he has not renounced this right. The additional elements shall be held to amend the subject matter of the industrial design if they contain features that were not contained in the application as originally filed but which should be included in the description. Any additional elements that modify the subject matter of the industrial design as claimed shall not

be taken into consideration for the purposes of the examination and the applicant may submit them as a separate application.

(8) If the additional or revised elements are not submitted within two months, in accordance with the examiner's request, the application shall be deemed to have been withdrawn.

(9) If, as a result of the examination, it is ascertained that the filed industrial design relates to Article 4(6) or Article 7(6) of this Law, a decision shall be taken to reject the grant of a patent.

(10) If the applicant does not agree with the examiner's decision, he may submit to the Office a request for re-examination within two months of the date of receipt of the decision. The application shall be re-examined within one month of the date of receipt of the request.

(11) According to the results of the re-examination, the Office shall decide whether to grant an industrial design patent or to refuse to grant such a patent.

(12) The patent shall be granted subject to the applicant's responsibility with no guarantee of its validity.

(13) If the applicant does not agree with the decision taken following re-examination, he may, within two months of receiving the decision, appeal to the Office Appeals Board. The Appeals Board shall examine the appeal within two months of receiving it.

(14) Where the applicant does not agree with the decision taken following re-examination or that given by the Appeals Board, he may, in accordance with the requisite legal procedure, apply to the courts.

### ***Conversion of Applications***

**31.**—(1) An application for an invention, declined on the grounds of lack of inventive step, may, within one month of receipt of the relevant decision and based on a request submitted by the applicant, be converted into a utility model application, and a utility model application—prior to the Office taking the decision to grant a utility model patent—may be converted into an invention application. In such cases, the priority of the first application shall be preserved.

(2) The grounds for submitting the statement and the conversion procedure shall be determined by the Office.

### ***Grant of a Patent and Publication of Information Thereon***

**32.**—(1) The Office shall, on the basis of a decision to grant a patent and provided that the fee for granting the patent has been paid, register an invention, utility model or industrial design in the corresponding State register of the Republic of Armenia (hereinafter "the Register") and, irrespective of the number of patent owners, shall grant them one patent.

(2) The form of the patent and the content of the information stated therein shall be determined by the Office.

(3) The obvious errors made in the patent shall be corrected by the Office at the patent owner's request.

(4) At the same time as it publishes the industrial property subject matter in the Register, the Office shall publish information on the grant of the patent in its official journal, together with full descriptions of the inventions and utility models.

(5) The content of the information published in the official journal shall be determined by the Office.

### ***Withdrawal of Applications and Refusal of Patents***

**33.**—(1) An applicant may, up to the time of State registration of industrial property subject matter, withdraw a filed application and refuse a patent.

(2) Information on the withdrawal of a published application and the refusal to receive a patent shall be published in the Office's official journal.

(3) From the time information on the withdrawal of an application or the refusal to receive a patent is published, the temporary protection envisaged by Article 28 of this Law shall be considered not to be granted.

## **CHAPTER VI TERMINATION OF VALIDITY OF PATENTS**

### ***Opposition to Patents***

**34.**—(1) A patent may, during the whole of the period of its validity, be recognized as fully or partially invalid, on the basis of an appeal against the grant of a patent, if:

1. the patentability criteria established by this Law have not been met;
2. the claims for an invention or utility model, or all the essential characteristics of an industrial design, contain features missing from the application as originally filed;
3. the industrial property subject matter contained in the description is not disclosed fully or sufficiently for the invention to be carried out;
4. the name of the author or patent owner is incorrectly stated in the patent.

(2) The person submitting an appeal shall provide reasons for the appeal and shall submit a document confirming payment of the appropriate fee.

(3) An appeal based on paragraph (1)1 to 3 of this article shall be examined by the Office Appeals Board within six months of being received, once the patent owner has been informed of the appeal. The examination shall not go beyond the limits of the reasoning contained in the appeal.

(4) Where the parties do not agree with the Appeal Board decision, each of them may, in accordance with the requisite legal procedure, refer the matter to the courts.

### ***Premature Termination of the Validity of Patents***

**35.**—(1) The validity of a patent shall be terminated prematurely:

1. in the event of total revocation of the patent under Article 34 of this Law;
2. at the request of the patent owner;
3. in the event of failure to pay the annual maintenance fee for the patent within the prescribed time limit.

(2) The validity of a preliminary patent shall be terminated prematurely if, in its place, a basic patent is granted in accordance with Article 27 of this Law.

(3) The Office shall publish information on the termination of the validity of a preliminary patent in its official journal.

## **CHAPTER VII PROTECTION OF THE RIGHTS OF INVENTORS AND PATENT OWNERS**

### ***Responsibility for Infringement of the Rights of the Creators of Inventions, Utility Models and Industrial Designs***

**36.**—(1) Any person who usurps the capacity of inventor, who obtains by coercion the capacity of joint inventor, or who publishes without the consent of the inventor the subject matter of an application before it is filed, or a State patent expert who discloses the subject matter of an invention, utility model or industrial design that has been applied for prior to its official publication, shall be liable in accordance with the legislation of the Republic of Armenia.

(2) State patent experts and Office officials may not file patent applications, nor may they acquire a patent directly or indirectly during their period of service or for two years thereafter.

## **CHAPTER VIII FINAL PROVISIONS**

### ***Restoration of Missed Time Limits***

**37.**—(1) The time limits established in Articles 23, 26, 27, 29 and 30 of this Law, which have been missed by an applicant, may be restored by the Office.

(2) A request for restoration of missed time limits, together with a document confirming payment of the appropriate fee, may be submitted within six months of the relevant date of expiry.

### ***Patentability of Inventions, Utility Models or Industrial Designs Abroad***

**38.**—(1) Inventions made or utility models and industrial designs created in the Republic of Armenia may be patented in other countries.

(2) Before filing a patent application abroad for an invention made or a utility model or industrial design created in the Republic of Armenia, the applicant shall file with the Office a patent application for the industrial property subject matter concerned and shall state his intention also to have the subject matter patented abroad.

(3) If, within three months of receiving the relevant notification, the Office has not issued a prohibition on the grounds provided for by Article 4(5) of this Law, an application may be filed abroad.

(4) An applicant who does not comply with the requirements of paragraph (2) of this article shall be liable under the legislation in force in the Republic of Armenia.

### ***Rights of Foreign Natural and Legal Persons***

**39.** Under the international treaties to which the Republic of Armenia is a party or on the basis of the principle of reciprocity, foreign natural and legal persons shall enjoy the rights afforded by this Law and shall incur liability in the same way as natural and legal persons of the Republic of Armenia.

## ***Patent Fees***

**40.** The filing of a patent application, the grant of a patent and the maintenance in force thereof, as well as the performance of other legal acts relating to a patent shall be subject to the payment of fees. The schedule of fees, amounts and time limits for paying the fees, together with the terms and conditions for reduction, refund or exemption therefrom shall be determined by the Law of the Republic of Armenia on State Fees.

## ***Transitional Provisions***

**41.—(1)** Temporary patents granted prior to the entry into force of this Law, the period of validity of which has not expired, shall be granted the legal status of a preliminary patent, in accordance with this Law.

(2) If, prior to the entry into force of this Law, the validity of the temporary patents granted has been terminated in connection with the end of the period of validity of the patent, the temporary patents in question shall, in accordance with a request by the patent owners, which may be submitted to the Office within six months of the date of entry into force of this Law, be accorded the legal status of a preliminary patent granted under this Law.

(3) The exclusive rights deriving from patents granted in accordance with paragraph (2) of this article, shall continue to be valid from the date on which the Office receives the patent owner's request.

(4) The Law on Patents of the Republic of Armenia, adopted by the Supreme Soviet of the Republic of Armenia on July 20, 1993, is hereby repealed.

*Entry into force:* December 6, 1999.