

# Legislative Provisions on Industrial Model Patents, Royal Decree No. 1411 of August 25, 1940<sup>\*</sup>

(as last amended by Legislative Decree No. 198 of March 19, 1996)

## TABLE OF CONTENTS<sup>\*\*</sup>

	<i>Articles</i>
Title I General.....	<a href="#">1</a>
Title II Utility Model Patents.....	<a href="#">2-4</a>
Title III Industrial Design Patents.....	<a href="#">5-8</a>
Title IV Provisions Common to Utility Model Patents and Industrial Design Patents .	<a href="#">9-13</a>
Title V Transitional Provisions.....	<a href="#">14-17</a>
Table A Schedule of Fees <sup>1</sup>	
Table B Acts and Documents Subject to Stamp Duty Other than Those Specified by Law No. 3268 (Unified Text) of December 30, 1923, as Amended <sup>2</sup>	

### **Title I General**

*Art. 1.* Royal Decree No. 1127, of June 29, 1939, on Industrial Inventions<sup>3</sup> shall apply, in addition to such inventions, also to

- utility models and
- industrial designs.

However, the provisions of Royal Decree No. 1127 of June 29, 1939, shall have effect in those fields to the extent that the said Decree is applicable, subject to the provisions of the Articles that follow.

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<sup>\*</sup> *Italian title:* Regio decreto 25 agosto 1940, n. 1411. Testo delle disposizioni legislative in materia di brevetti per modelli industriali.

*Entry into force* (of last amending Decree): April 15, 1996.

*Note:* Consolidation and translation by the International Bureau of WIPO on the basis of an English translation supplied by the Italian authorities.

<sup>\*\*</sup> Added by the International Bureau of WIPO.

<sup>1</sup> Not reproduced here (*Editor's note*).

<sup>2</sup> Not reproduced here (*Editor's note*).

<sup>3</sup> See *Industrial Property Laws and Treaties*, ITALY — Text 2-001.

## **Title II Utility Model Patents**

*Art. 2.* Utility model patents may be obtained for new models capable of affording special effectiveness or ease of application or use to machines or parts of machines, to instruments, to utensils and everyday objects, where they consist in special forms, arrangements, configurations or combinations of elements.

A patent granted for a machine as a whole shall not imply protection of the parts of the machine.

The effects of a utility model patent shall extend to models having equivalent utility, on condition that they are based on the same innovative concept.

*Art. 3.* The right to the patent shall belong to the author of the new utility model and to his successors in title.

However, where such models are created by employees, [Articles 23, 24 and 25](#) of Royal Decree No. 1127 of June 29, 1939, shall apply unless otherwise agreed.

*Art. 4.* Anyone applying for a patent for invention may, in accordance with Royal Decree No. 1127 of June 29, 1939, simultaneously file an application for a utility model patent in the event of the first-mentioned application not being accepted or only being accepted in part.

Where the application is made in respect of a model instead of an invention or vice versa, the Italian Patent and Trademark Office shall invite the applicant to amend his application within the time limit notified to him. However, the application shall have effect as from the date of the initial filing.

Where the application for a utility model patent also concerns an invention or vice versa, [Article 29](#) of Royal Decree No. 1127 of June 29, 1939, as amended, shall apply.

## **Title III Industrial Design Patents**

*Art. 5.* Industrial design patents may be obtained for new designs capable of affording special ornamentation to given industrial products by means of the form or by a special combination of lines, colors or other elements.

Neither the provisions of copyright nor those of [Article 27ter](#) of Royal Decree No. 1127 of June 29, 1939, as amended, shall apply to such designs.

*Art. 6.* One application may contain up to a maximum of 100 designs, on condition that they are intended for incorporation in articles classified in the same class of the International Classification for Industrial Designs established by the Locarno Agreement of October 8, 1968, as amended, ratified by Law No. 348 of May 22, 1974.

Subject to the preceding paragraph and to [Article 8](#), an application for the grant of more than one patent or an application for one patent covering more than one model shall not be admissible. Where the application is not admissible, the Italian Patent and Trademark Office shall invite the applicant, in accordance with [Article 29](#) of Royal Decree No. 1127 of June 29, 1939, as amended, to restrict the application to the admissible part.

A patent covering more than one design, referred to in this Article, may be limited, at the request of the owner, in accordance with [Article 59quater](#) of Royal Decree No. 1127 of June 29, 1939, as amended.

*Art. 7.* The right to the patent shall belong to the creator of a new industrial design and to his successors in title.

Unless otherwise agreed, the patent for an industrial design created by an employee, where such work forms part of his tasks, shall belong to the employer, without prejudice to the employee's right to be acknowledged as the creator of the design and to have his name entered in the Patent Register and on the patent.

*Art. 8.* Where the shape or design of an object gives it a new ornamental nature and at the same time increases its utility in accordance with [Article 2](#), above, a patent may be applied for simultaneously for an industrial design and for a utility model, whereby the two forms of protection may not be covered by the same patent.

Where the application concerns an object whose shape or design affords it a new ornamental nature and at the same time increases its utility, [Article 29](#) of Royal Decree No. 1127 of June 29, 1939, as amended, shall apply.

## **Title IV Provisions Common to Utility Model Patents and Industrial Design Patents**

*Art. 9.* The term of utility model patents shall be 10 years and that of industrial design patents 15 years, as from filing of the application.

*Art. 10.* The Italian Patent and Trademark Office shall lay open to the public the utility model application, together with the description and any drawings or samples, in accordance with [Article 4](#) of Royal Decree No. 1127 of June 29, 1939, as amended.

The Italian Patent and Trademark Office shall lay open to the public the application for an industrial design, together with the reproduction or samples and any descriptions, following filing, except where the applicant has excluded, in the application, availability to the public for a period which may not exceed 12 months as from the filing date or priority date.

In those cases referred to in the preceding paragraphs, the Italian Patent and Trademark Office shall not undertake the publication referred to in the second paragraph of [Article 38](#) of Royal Decree No. 1127 of June 29, 1939, as amended.

*Art. 11.* Utility model patents and industrial design patents shall be subject to payment of the following fees:

- (1) the application fee;
- (2) the granting fee.

The amounts of the fees laid down by this Decree are given in Table A<sup>4</sup> annexed hereto.

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<sup>4</sup> Not reproduced here (*Editor's note*).

The acts and documents subject to stamp duty, other than those specified by Law No. 3268 (unified text) of December 30, 1923, are given in Table B<sup>5</sup> annexed hereto.

*Art. 12.* The granting fee may be paid in a single payment or in five-year installments.

The granting fee for textile designs may be paid in yearly installments.

**Articles 46** *et seq.* and the related provisions of Royal Decree No. 1127 of June 29, 1939, concerning renewal fees for patents for invention shall apply to payment of the above-mentioned installments of the granting fee.

*Art. 13.* **Articles 54 to 54sexies** of Royal Decree No. 1127 of June 29, 1939, as amended, and **Articles 3** and **4** of Decree No. 849 of the President of the Republic of February 26, 1968, governing the grant of compulsory licenses for patents for invention shall extend to utility model patents.

In the event of failure to pay installments of the granting fee, **Articles 55** *et seq.* and the related provisions of Royal Decree No. 1127 of June 29, 1939, concerning failure to pay renewal fees for patents for invention shall apply.

## **Title V Transitional Provisions**

*Arts. 14. to 17.* [Obsolete.]

TABLE A Schedule of Fees

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TABLE B Acts and Documents Subject to Stamp Duty Other than Those Specified by Law No. 3268 (Unified Text) of December 30, 1923, as Amended

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