

**TEMPORARY PROVISION OF THE REPUBLIC OF TAJIKISTAN ON
INVENTIONS, UTILITY MODELS AND INDUSTRIAL DESIGNS**

SECTION 1. GENERAL PROVISIONS

ARTICLE 1. THE RELATIONS REGULATED BY THE PROVISION.

1.1. The present Provision shall regulate proprietary and related personal non-proprietary relations arising in connection with the development, legal protection and use of inventions, utility models and industrial designs (further – objects of industrial property).

1.2. This Provision in the territory of the Republic of Tajikistan shall cover objects of industrial property, patents for which are issued on the basis of international agreements to which the Republic of Tajikistan is a party.

1.3. If the international agreement of Republic of Tajikistan establishes other rules, than those contained in the present Provision than the rules of the international agreement shall be applied.

**ARTICLE 2. THE STATE PATENT OFFICE OF THE REPUBLIC OF
TAJIKISTAN**

The State Patent Office of the Republic Tajikistan (hereinafter – Patent Office) according to the present Provision shall receive applications for inventions, utility models and industrial designs, conduct their examination, register and grant patents, in established order recognize protected documents invalid, carry out official publications, give explanations on application of the present Provision and perform other tasks entrusted to it in accordance with its Regulation, approved by the Government of the Republic of Tajikistan.

Financing of the Patent Office shall be realized out of state budget funds of the Republic of Tajikistan allocated to the Patent Office for the development of all forms of activity, as well as additional sources of financing (funds, obtained from rendering of patent information services, duties, taxes for certification and registration of patent attorneys, foreign trade activities and a other proceeds).

**ARTICLE 3. THE RIGHT PROTECTION OF INVENTION, UTILITY MODEL,
INDUSTRIAL DESIGN**

3.1. The right for an invention, industrial design shall be protected by the law and shall be certified by a patent, and for the utility model by a certificate.

3.2. A patent shall certify the priority, authorship and exclusive right of the patent owner for the use of invention and industrial design, and the certificate for a utility model.

3.3. A patent for an invention shall be valid for a term of 20 years, and a certificate for a utility model shall be valid for a term of 6 years. The term of certificate shall be extended by the Patent Office at its owner's request, but not for more than 3 years.

A patent for an industrial design shall be valid for a term of 10 years, the term of which shall be extended by the Patent Office at its owners request but not for more than 5 years.

3.4. The scope of legal protection conferred by a patent for invention, a certificate for utility model shall be determined by a formula and a patent for industrial design by the totality of its essential features, represented on photographs of the article (a model, drawing).

3.5. The legal protection according to the present Provision shall not be conferred to the objects of industrial property, recognized confidential by the state. The order of handling the confidential inventions, utility models, industrial designs shall be regulated with a special law of the Republic of Tajikistan.

SECTION 2. CONDITIONS FOR PATENTABILITY OF OBJECTS OF INDUSTRIAL PROPERTY

ARTICLE 4. CONDITIONS FOR PATENTABILITY OF TECHNICAL SOLUTION FOR ITS RECOGNITION AS AN INVENTION

4.1. A technical solution shall be recognized as an invention and shall be granted legal protection if it is new, innovative and industrially applicable.

An invention is new if it is not known from the data on the prior art.

A technical solution shall be deemed innovative if it is not obvious from the prior art to a person skilled in the art.

Data on the prior art shall include any information made available to the public anywhere in the world prior to the date of priority of the invention.

In assessing the novelty of an invention the prior art shall include the earlier filed unrevoked applications for an invention and utility models of other authors, as well as inventions and utility models patented in the Republic of Tajikistan (from the date of their priority).

A technical solution shall be considered industrially applicable if it can be used in industry, agriculture, healthcare and other fields of activity and can bring a positive result.

4.2. The subjects of an invention could be a device, a process, a substance, a microorganism strain, a culture of cells of plants and animals, and also use of an earlier known device, process, substance, strain of microorganism with a new purpose.

4.3. The following shall not be recognized as patentable inventions:

- scientific theories and mathematical methods;
- methods of organization and management of economy;
- conventional signs, schedules, rules;
- rules and methods for performing mental acts;
- programs for computers;
- projects and a lay-out designs of constructions, buildings, territories;
- proposals concerning solely the outward appearance of articles intended to satisfy aesthetic requirements;
- layout of integrated circuits;
- plant varieties and animal breeds;
- proposals contrary to public interests, principles of humanity and morality.

4.4. The patentability of an invention shall not be prejudiced by the disclosure of information relating to such invention by the applicant or by any other person who received such information, directly or indirectly, from the applicant as a result of which the substance of the invention became public if the application for such invention is

filed with the Patent Office within 6 months from the date of such disclosure. The burden of proof in such case shall rest with the applicant.

ARTICLE 5. CONDITIONS FOR PATENTABILITY OF THE TECHNICAL SOLUTION FOR ITS RECOGNITION AS A UTILITY MODEL

5.1. New and industrially applicable solutions relating to constructive realization of production means and consumer articles or its components are protected as utility models.

A utility model is new if aggregate of its essential features is not known from the state of prior art.

The prior art includes information on the means of the same purpose as an applied utility model, made public in the world before the date of priority of a utility model, as well as information on their application in Republic Tajikistan.

The prior art shall include, providing their early priority, all filed applications of other persons in the Republic of Tajikistan for an invention and utility models (except for withdrawn ones), and also inventions and utility models patented in the Republic of Tajikistan.

The utility model shall be deemed industrially applicable if it can be practically used.

The novelty of a utility model shall not be prejudiced by the public disclosure of information relating to such utility model by the applicant (author) or by any other person who received such information, directly or indirectly, from the applicant if the application for such utility model is not filed within 6 months from the date of such disclosure. The burden of proof in such case shall rest with the applicant.

5.2. The solutions shall not be protected as utility models, if they relate to:

the processes, substances, microorganism strains, cultures of plant and animal cells, as well as their application with a new purpose;

subjects, referred to in Article 4(Item 3) of the present Provision.

ARTICLE 6. CONDITIONS FOR PATENTABILITY OF AN INDUSTRIAL DESIGN

6.1. An industrial design shall include an artistic and design solutions of an article determining its outward appearance.

An industrial design shall be granted protection if it is new, original and industrially applicable.

An industrial design shall be deemed to be new if the aggregate of its essential features specifying aesthetic and ergonomic characteristics of an article, are not known from the data made publicly available in the world before the priority date of the industrial design.

In assessing the novelty of an industrial design all earlier filed and unrevoked applications of other persons in the Republic of Tajikistan for identical industrial designs shall be taken into consideration, as well as all industrial designs patented in the Republic of Tajikistan (from the date of their priority).

The industrial design shall be recognized original if its essential features stipulate a creative character of aesthetic identities of the articles.

The industrial design shall be recognized industrially applicable if it can be repeatedly reproduced by way of manufacturing a corresponding article.

6.2. The following shall not be recognized as patentable industrial designs:

- solutions that are determined exclusively by the technical function of an article;
- solutions that relate to architectural works (with the exception of minor architectural forms) and industrial, hydrotechnical and other stationary structures;
- solution that relate to printed matter as such;
- solution that relate to subject matter of unstable shape such as liquids, gaseous, dry or the like;
- articles that are contrary to the public interests, principles of humanity and morality.

The patentability of an industrial design shall not be prejudiced by the public disclosure of information relating to such design by the applicant (author) or any other person who received such information from the applicant if the application for an industrial design is filed within 6 months from the date of such disclosure.

SECTION 3. SUBJECTS OF LAW.

ARTICLE 7. AUTHOR OF AN INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN

7.1. A physical person whose creative work resulted in an invention, utility model, industrial design shall be recognized as the author thereof.

7.2. Where a subject of industrial property results from a joint creative work of two or more natural persons, those persons shall be recognized as the joint authors thereof. The conditions for excising the author's rights shall be determined by an agreement between them.

Persons shall not be deemed to be joint authors if they did not make a personal creative contribution to the development of a subject of industrial property or only provided the author(s) with technical, organizational or material assistance or only helped in securing the registration of rights for such subject and for its use.

7.3. The authorship right shall be an inalienable personal right and shall be protected perpetually.

ARTICLE 8. PATENT OWNER

8.1. The patent for invention, industrial design and the certificate for a utility model shall be granted to:

- the author(s) of an invention, utility model, industrial design or his (their) heir(s);
- physical and legal persons (providing their consent) who are indicated by the author(s) or his (their) successor(s) in the application for the grant of a patent or in the application filed to Patent Office till the moment of registration of an invention, utility model, industrial design;
- the employer, in the cases stipulated by Point 2 of this Article.

8.2. The right to obtain a patent for an invention, industrial design, and a certificate for a utility model, created by an employee in connection with the fulfillment of his employment duties or a specific task of the employer shall belong to the employer, unless otherwise agreed in the contract between them.

8.3. According to the agreement, the author has the right for remuneration commensurable with the gain that the employer derived or could have derived from the proper use of the subject of industrial property, in the event that the employer obtained a patent, the employer assigned the right to obtain a patent to another person, the

employer decided to keep the information on corresponding subject secret or the employer failed to obtain a patent on the application filed by the employer due to reasons within his control. Remuneration shall be paid in the amount and on conditions defined on the basis of the agreement between them.

8.4. If the employer fails, in 3 months from the date of being notified of an invention, a utility model or an industrial design by its author, to file an application to the Patent Office, to assign the right to file an application to another person, and to notify the author of keeping secret the subject concerned, the author shall have the right to file an application and obtain a patent on his name. In this case, the employer shall have the right to use the subject of industrial property concerned in own production operations subject to compensation payable to the patent owner in an amount to be determined on a contractual basis.

8.5. In a case of failure in agreement between the parties on the amount and procedure for payment of remuneration or compensation, the dispute shall be settled judicially. For failure to pay on time the remuneration or compensation, determined by the agreement, the employer responsible shall be liable in accordance with the civil legislation of the Republic of Tajikistan.

8.6. Other relations arising in connection with creation of an invention, a utility model, an industrial design by the worker shall be regulated by the law of the Republic of Tajikistan on service inventions, utility models and industrial designs.

ARTICLE 9. THE STATE FUND OF INDUSTRIAL PROPERTY OF THE REPUBLIC OF TAJIKISTAN

9.1. The State Fund of Industrial Property of the Republic of Tajikistan shall enforce rights and responsibilities of a patent owner concerning inventions, utility models, industrial designs, the exclusive right of use for which is transferred to the state on a contractual basis, and shall encourage their enforcement in behalf of the state.

9.2. Sources of financing of the State Fund of Industrial Property of the Republic of Tajikistan shall be earnings from selling of licenses for subjects of industrial property, patents for which belong to the Fund, voluntary payments of enterprises and citizens, as well as state budgetary funds of the Republic of Tajikistan and other earnings.

9.3. The State Fund of Industrial Property of the Republic of Tajikistan shall realize its activity in accordance with the Provision approved by the Patent Office.

SECTION 4. EXCLUSIVE RIGHT TO USE AN INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN

ARTICLE 10. RIGHTS AND OBLIGATIONS OF A PATENT OWNER

10.1. A patent owner shall have an exclusive right to use an invention and an industrial design, protected by a patent and a utility model protected by a certificate at his own discretion, including the right to prohibit use of the specified subjects by other persons, except in the cases when such use, according to the present Provision, does not constitute an infringement of the patent owner's right.

Mutual relations regarding the use of a subject of industrial property a patent for which is owned by several persons shall be governed by an agreement between them. In the absence of such agreement, each of them may use the protected subject at his own discretion, but may not grant a license or assign the patent to another person without other patent owner's consent.

10.2. An unauthorized manufacture, application, import, storage, offer to sale, sale and

placing on the market of a product created with use of a protected decision, and also application of the process protected by a patent for an invention, or placing on the market of a product produced directly by the process protected by a patent for an invention shall be deemed as infringement of an exclusive right of a patent owner. A new product shall be deemed to be obtained by a patented process unless evidence shall be provided to the contrary.

10.3. A product (article) shall be deemed manufactured by use of a patented invention, a utility model, and the process protected by a patent for an invention shall be deemed applied, if the process uses every feature of such invention, utility model included in an independent point of claim or an equivalent feature.

An article shall be recognized as manufactured by use of a patented industrial design if it contains all its essential features.

10.4. The patent owner shall be obliged to use the invention, utility model, industrial design. The term 'use' shall mean manufacture of a patented product, application of the patented process or permission for another person to produce a patented product by using the given patented process.

If an invention or an industrial design remain unused or insufficiently used by the patent owner for 6 years, and a utility model for 4 years from the date of publication of data on granting a patent, any person willing and ready to use the protected subject may, if the patent owner refuses to enter into a license contract, appeal to court and demand a grant of a compulsory license. If the patent owner fails to prove that he made no or insufficient use for a valid reason, the court shall grant the specified license, setting limits on the use, the amount, terms and procedures for payment. The amount of payments should be set at not lower than a market price of a license.

10.5. If a patent owner is unable to use the invention, utility model, industrial design without infringing the rights of another patent owner he shall have the right to demand a license agreement to be concluded by the latter

10.6. A patent owner may assign the obtained patent to any physical or legal person. A contract on assignment of a patent shall be subject to registration with the Patent Office. A contract without registration shall be considered invalid.

10.7. A patent for an invention, industrial design, and a certificate for a utility model and (or) the right to obtain them shall be inherited.

ARTICLE 11. ACTIONS NOT RECOGNIZED AS INFRINGEMENT OF AN EXCLUSIVE RIGHT OF A PATENT OWNER

The following shall not be deemed as infringement of an exclusive right of a patent owner:

- use of the devices incorporating inventions, utility models, industrial designs protected by a title of protection in the construction or operation of (sea, river, air, land and space) vehicles of other countries provided that the specified devices are placed temporarily or accidentally in the territory of the Republic of Tajikistan and are used for the needs of a vehicle. No such action shall be deemed as infringement of an exclusive right of the patent owner if the vehicles belong to physical or legal persons of the countries granting the same rights to vehicle owners of the Republic of Tajikistan;
- scientific research or experiment involving devices containing inventions, utility models or industrial designs;
- application of such devices in case of emergency (natural disasters, catastrophes, major accidents);

- use of such devices for personal needs without deriving any income;
- one-time production of medicines in pharmacies on a doctor's prescription;
- if upon sale by a patent owner or from his permission of a product or an article protected by a patent, any other person shall use or sell this product or article;
- if any person applies or sells a product protected by a patent, not knowing that it is made or sold without the permission of a patent owner, except for cases when this person has been notified of the patent.

ARTICLE 12. RIGHT OF PRIOR USE

Any physical or legal person that before the priority date of the invention, utility model, industrial design, irrespective of its author, developed and applied in the territory of the Republic of Tajikistan an identical solution or made appropriate preparations for it shall retain the right for its further free of charge use without increasing the scope of such use.

The right of prior use may be assigned to a physical or legal person only together with production operations which involved the use of such identical solution or necessary preparations for such use.

ARTICLE 13. GRANT OF THE RIGHT TO USE THE SUBJECTS OF INDUSTRIAL PROPERTY

13.1. Any person, other than the patent owner, shall have the right to use an invention, utility model, industrial design, protected by a title of protection only with the patent owner's permission (on the basis of a license contract).

Under the license contract the patent owner (licensor) shall undertake to grant the right to use the protected subject to the extent, specified in such contract, to another person (licensee), and the latter shall undertake to make to the licensor the payments stipulated in the contract and perform other actions provided for in the contract.

13.2. Under an exclusive license the licensee shall be assigned an exclusive right to use subjects of industrial property to the extent stipulated in the contract, while the licensor shall retain the right to use it, but other than to the said extent; under a non-exclusive license, the licensor, while granting the right to use the subject of industrial property to the licensee, shall retain all rights confirmed by the patent, including the right to grant licenses to third parties.

13.3. A license contract shall be subject to registration with the Patent Office and shall be deemed invalid without such registration.

13.4. A patent owner may file to the Patent Office a petition to grant to any person the right to obtain a license (open license). The fee for keeping a patent in force in such case shall be reduced by 50 % from the year following the year during which the Patent Office published a notice of such petition.

A person willing to obtain the specified license shall be obliged to conclude a contract on payments with the patent owner. Disputes over the terms of contract shall be settled in the court. Petition of the patent owner for granting the right for an open license shall not be withdrawn.

13.5. For reasons of national safety the Government of the Republic of Tajikistan shall have the right to permit the use of subject of industrial property without the consent of the patent owner while paying him a proportional compensation.

ARTICLE 14. INFRINGEMENT OF A PATENT

14.1. Any physical or legal person using an invention, utility model or industrial design, protected by a patent (certificate) contrary to the present Provision shall be considered infringing a title of protection.

14.2. At the request of a patent owner infringement of a patent (certificate) should be terminated, and physical or legal person, guilty of infringing a title of protection shall be obliged to compensate to the patent owner the caused losses according to the civil legislation of the Republic of Tajikistan.

14.3. Demands to the patent breaker may also be made by the licensee providing that it is stipulated in the license contract.

SECTION 5. OBTAINING A PATENT

ARTICLE 15. APPLICATION FOR THE GRANT OF A PATENT OR CERTIFICATE

15.1. An application for the grant of a patent or certificate shall be filed by an author, employer or their successors (hereinafter - applicant) with the Patent Office.

15.2. An application for the grant of a patent or certificate and other documents of application shall be submitted in Tajik or Russian languages. If documents of application submitted in other languages, their translation in Tajik or Russian shall be attached. Translation may be submitted by an applicant within 2 months after receiving of application, containing documents in other languages, by the Patent Office.

15.3. An application may be filed through a patent attorney registered with the Patent Office. Physical persons residing outside the Republic of Tajikistan, or foreign legal entities or their patent attorneys shall conduct business on obtaining patents and their maintenance in force through the patent attorneys registered with the Patent Office. The authority of a patent attorney shall be certified by the power of attorney issued to him to the name of a person for whom a title of protection is demanded.

The Patent Office shall determine the procedures for certification and registration of patent attorneys and their enforcement.

ARTICLE 16. APPLICATION FOR THE GRANT OF A PATENT FOR AN INVENTION

16.1. An application for the grant of a patent for an invention (hereinafter – application for an invention) shall relate to a single invention or a group of inventions so linked as to form a single inventive concept (requirement for unity of invention).

16.2. An application for an invention shall contain:

- a request for the grant of a patent with indication of the author(s) of an invention and the person(s) in whose name the patent is requested, as well as their places of residence or business;
- a description of the invention, disclosing it fully enough for implementation;
- a claim of invention stating its essential features and fully based on the description;
- drawings and other materials where necessary for the understanding of subject matter of the invention;
- an abstract;

- a document certifying the payment of a fee in the prescribed amount or grounds for exemption from payment of the fee, as well as reduction of fees.

16.3. Other requirements for the documents of an application for an invention shall be established by the Patent Office.

ARTICLE 17. THE APPLICATION FOR THE GRANT OF A CERTIFICATE FOR A UTILITY MODEL

17.1. An application for the issue of a certificate for a utility model (hereinafter – application for a utility model) shall relate to a single utility model (requirement for unity of utility model).

17.2. An application for a utility model shall contain:

- a request for the issue of a certificate with an indication of the author(s) of the utility model and the person in whose name the certificate is requested, as well as (their) places of residence or business;
- a description of the utility model;
- claim of the utility model fully based on the description;
- drawings;
- an abstract;
- a document certifying the payment of a fee in the prescribed amount or the grounds for exemption from the payment of a fee, as well as reduction of fees.

17.3. Other requirements for the documents of an application for a utility model shall be established by the Patent Office.

ARTICLE 18. APPLICATION FOR THE GRANT OF A PATENT FOR AN INDUSTRIAL DESIGN

18.1. An application for the grant of a patent for an industrial design (hereinafter – application for an industrial design) shall relate to a single industrial design and may include the variants of this sample (requirement for unity of industrial design).

18.2. An application for an industrial design shall contain:

- a request for the grant of a patent with indication of the author(s) of an industrial design and the person in whose name the patent is requested, as well as their places of residence and business;
- a series of photographs imaging articles, lay-outs or drawings displaying in detail the outward appearance of an article;
- outline drawing of an article, its ergonomic diagram, and confection chart if necessary to for display the substance of the industrial design;
- a description of an industrial design including a list of its essential features;
- a document certifying the payment of a fee in the prescribed amount or the grounds for exemption from the payment of the fee, as well as reduction of fees.

18.3. Other requirements for the documents of an application for an industrial design shall be established by the Patent Office.

ARTICLE 19. PRIORITY OF AN INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN

19.1. The priority of an invention and a utility model shall be established by the date of

receiving of the application by the Patent Office, including application for the grant of a patent and a certificate, a description, a claim and drawings accordingly, if a reference to them is made in the description.

The priority of an industrial design is established by the date of receipt of the application including a request for the grant of a patent, a description, a set of images.

19.2. The priority may be established by the date of submission of the first application in the state-member of the Paris Convention on Protection of Industrial Property (a conventional priority), if the application for an invention, utility model, industrial design entered the Patent Office during 12 months as of the specified date. In the event that due to reasons outside of applicant's control the application requesting a conventional priority could not be filed within the specified period, the latter may be extended, but for no more than 2 months.

An applicant willing to take advantage of the right of a conventional priority shall be obliged to indicate it at filing an application or within two months from the date of its receipt by the Patent Office and shall enclose a copy of the first application or present it not later than 3 months from the date of receipt of the application by the Patent Office.

19.3. The priority may be established by the date of submission of the first identical application filed in accordance with interstate agreements on protection of industrial property to which the Republic Tajikistan is a party, if such application withdrawn by the applicant and between date of its priority and the date of receipt of the application by the Patent Office has passed not more than 12 months.

19.4. The priority may be established by the date of receipt of additional materials if they are submitted by the applicant as a separate application provided that it has been filed before the expiry of a three-month period following the date of receipt by the applicant of a notification from the Patent Office regarding the impossibility of consideration of the additional materials since they are recognized as modifying the essence of the claimed solution.

19.5. The priority may be established by the date of receipt by the Patent Office of an earlier application of the same applicant disclosing such invention, utility model, industrial design, if the application for such priority entered not later than 12 months from the date of receipt of an earlier application. In such case, the earlier application shall be deemed to be withdrawn.

The priority may be established on the basis of several preceding applications subject to their compliance with the specified conditions.

The priority may not be established by the date of the receipt of the application which already requested an earlier priority.

19.6. The priority of an invention for a divisional application shall be established by the date of receipt by the Patent Office of the initial application disclosing such invention and if the divisional application has been received before a decision has been taken not to grant a patent, where the possibility for appeal has been exhausted, and if a decision to grant a patent has been received – prior to the date of registration of the invention in the Register of Inventions.

19.7. If in the process of examination it is established that identical subjects of industrial property have the same date of priority, then the patent shall be granted on the application in which an earlier date of its dispatch to the Patent Office is specified, and should such dates also coincide - on the application having an earlier registration number assigned by the Patent Office, unless otherwise agreed between the applicants.

ARTICLE 20. CORRECTION OF DOCUMENTS OF AN APPLICATION AT THE APPLICANT'S INITIATIVE

Within two months from the date of receipt of an application an applicant shall have the right to make corrections and clarifications to the application materials without changing the essence of the claimed invention, utility model or an industrial design. Corrections and clarifications may be submitted on application for an invention and upon expiry of a specified period, but not later than 12 months from the date of the receipt of an application, providing that the fee has been paid.

ARTICLE 21. EXAMINATION OF AN APPLICATION FOR AN INVENTION

21.1. Upon the expiry of two months from the date of receipt of an application the Patent Office shall conduct its formal examination. At the written request of the applicant a formal examination may be started before the expiry of the said term. In that case the applicant shall forfeit the right provided for by Article 20 of this Provision, from the moment of submission of the application.

In the course of a formal examination of an application it shall be verified whether all requisite documents are included and meet the basic requirements and the issue whether the claimed proposal relates to subjects which are granted the right of protection shall be considered.

21.2. If, according to Article 20 of this Provision, the applicant submits supplementary materials for the application in the course of examination it shall be verified whether they modify the essence of the claimed solution.

Supplementary materials shall be deemed to modify the substance of the claimed invention if they contain features subject to inclusion in the claims of such invention and lack them in the initial materials of the application. Any supplementary materials modifying the substance of the claimed invention shall not be considered in the course of examination of the application and may be filed by the applicant as a separate application.

21.3. The applicant shall be notified of a positive result of the formal examination. If, as a result of the formal examination it will be established that the application is filed for the proposal, which does not relate to patentable objects, a decision on refusal in the grant of a patent shall be taken. The decision may be appealed within two month from the date of its receipt by the applicant. The appeal shall be considered by the Patent Office within two month after its receipt.

21.4. Where filed applications are found to be inconsistent with requirements applicable to its documents the applicant shall be given a notice requesting to submit corrected or missing documents within two month from the date of receipt of the application.

If the applicant fails to submit the requested documents or apply for the extension of its term within the specified period, the application shall be deemed withdrawn.

21.5. Where applications are found to be inconsistent with the unity of the invention, the applicant shall be requested to inform, within two months, which of the proposals is to be examined and to clarify accordingly the documents of the application. The other proposals covered by the initial application may be filed as divisional applications. If such applications are filed within three months from the date of receipt of notification requiring the division of the application, the priority of the divisional applications may be established by the date of receipt of the initial application by the Patent Office.

If, within two months after receipt of the notice of non-compliance with the unity of invention, the applicant fails to inform which of the proposals is to be examined and fails to submit updated documents, the examination shall be carried out in respect of the

object that comes first in the claims.

21.6. Upon the expiry of 18 months from the date of receipt of the application that have positively passed the formal examination the Patent Office shall publish information along with the claim of invention. Any person after publication of data on the application shall have the right to learn the materials.

At the request of the applicant the Patent Office may publish data on the application before the specified period. Such publication shall be carried out within 6 months from the date of receipt of the request for publication.

The author of invention shall have the right to refuse to be mentioned as such in the published data on the application.

21.7. At the request of an applicant or third parties which shall be filed at any time within three years of the date of receipt of an application, the Patent Office shall carry out a substantive examination of the patent. If the applicant without a valid reason fails to submit a request for examination within a specified period, the application shall be considered withdrawn.

21.8. In the course of a patent examination of the application the Patent Office shall have the right to request from the applicant supplementary materials without which it is impossible to carry out the examination, including the modified claim of invention.

The supplementary materials requested for the examination shall be submitted within two months of the date of receipt of the request and without modification of the substance of the invention.

The procedure established by Point 2 of this Provision shall cover the supplementary materials in respect of a part modifying the essence of the invention.

If, as a result of examination of the application the Patent Office establish that the claimed proposal in the volume of legal protection requested by the applicant meets the conditions of patentability of the invention, stipulated in Article 4 of the present Provision, a decision to grant a patent with the claim of invention proposed by the applicant shall be made.

Where a claimed proposal is found, within the scope of legal protection sought by the applicant, to be inconsistent with the conditions of patentability of the invention a decision shall be made to refuse the grant of a patent.

An applicant may lodge an appeal on the decision to refuse the grant of a patent with the Supervisory Council of the Patent Office within two months of the date of its receipt. The appeal shall be considered within six months of the date of its receipt.

21.9. In the event of disagreement of the applicant with the decision of the Council, within six months from the date of its receipt, he may appeal to the court, the decision of which shall be final.

21.10. An applicant and third parties may request for information search to be carried out in respect of the application that have passed the formal examination with positive results in order to determine the state of art in comparison to which the novelty and inventive step of the claimed proposal shall be assessed. The procedure for such search and provision of its data shall be established by the Patent Office.

21.11. An applicant shall have the right to acquaint himself with all the materials indicated in the examination request, in the examination decision or in the search report. The Patent Office shall send copies of the patent materials requested by the applicant within a month from the date of receipt of the request.

21.12. The terms, envisaged by the present Article, except for the terms established by Points 7 and 9, defaulted by the applicant, may be reinstated by the Patent Office subject to confirmation of good reasons and payment of the fee. A request for reinstatement of terms may be filed by the applicant not later than twelve months from

the date of the expiry of the default term.

ARTICLE 22. PROVISIONAL PROTECTION OF AN INVENTION

22.1. A claimed invention, in accordance with Article 21, Point 6 of this Provision, shall enjoy provisional legal protection within the scope of published claims from the date of publication of the application till the date of publication of the grant of a patent.

22.2. A physical or legal person, using the claimed invention during the period of its legal protection, shall pay monetary compensation to the patent owner after obtaining a patent for the invention. The amount of compensation shall be determined by consent of the parties.

22.3. The provision of Point 2 of this Article shall be extended to inventions, utility models and industrial designs from the date of notification by the applicant of the person using them about the filed application for the grant of a patent or certificate if in respect of invention this date came earlier than the date of publication of information about the application, and in respect of utility models and industrial designs – earlier than the date of publication of information about the issue of certificate and patent.

ARTICLE 23. EXAMINATION OF AN APPLICATION FOR A UTILITY MODEL

23.1. Examination of an application for a utility model shall not include verification of conformity with the conditions of patentability, stipulated by Point 1 of Article 5 of this Provision. A certificate shall be issued under the responsibility of the applicant.

23.2. In conducting a formal examination of the application for a utility model the provisions contained in Points 1-5 of Article 21 of this Provision shall be applied, and if its documents are filed correctly a decision on the issue of certificate shall be made.

23.3. An applicant and third parties shall have the right to request for an information search on the application for a utility model in order to determine the state of art, in comparison with which the patentability of the utility model may be assessed. The procedure for information search and provision of information about it shall be established by the Patent Office.

23.4. After publication of information on the grant of a patent for a utility model any person shall have the right to acquaint himself with materials of the application.

ARTICLE 24. EXAMINATION OF AN APPLICATION FOR AN INDUSTRIAL DESIGN

24.1. On the application for an industrial design the Patent Office shall carry out formal and substantive examinations.

In the course of formal examination for an industrial design the provisions contained in Points 1-5 of Article 21 of the present Provision are accordingly applied.

24.2. In the course of substantive examination of the application the provisions contained in paragraphs 7, 8, 9, 11 and 12 of Article 21 of this Provision shall be accordingly applied.

24.3. After publication of the information on the grant of a patent for an industrial design any person shall have the right to acquaint himself with materials of the application.

24.4. A substantive examination of the application for an industrial design shall be carried out within a period not exceeding 12 months from the date of receipt of the application by the Patent Office.

ARTICLE 25. PUBLICATION OF INFORMATION ON A TITLE OF PROTECTION

25.1. Within six months of the date of making a decision to grant a patent for an invention, utility model, industrial design providing the payment of fee by the applicant, the Patent Office shall publish in the Official Bulletin information about the granted title of protection, including the names of the author(s), if the latter have not refused to be mentioned as such, and the patent owner, the name and the claim of the invention or the utility model or the list of essential features of an industrial design and its images. The Patent Office shall determine fullness of the published information.

25.2. The form of a title of protection and the content of information described there shall be determined by the Patent Office.

25.3. The Patent Office shall issue the author of the subject of industrial property who is not a patent owner an official certification confirming his authorship.

ARTICLE 26. REGISTRATION OF AN INVENTION, UTILITY MODEL, INDUSTRIAL DESIGN AND GRANT OF A PATENT

26.1. The Patent Office simultaneously with publication of information on the grant of a title of protection shall enter an invention, utility model or industrial design into the Register of inventions, or the Register of utility models, or the Register of industrial designs accordingly, and shall grant a patent or a certificate to the patent owner.

26.2. Where a patent was sought in the names of several persons request, they shall be granted a single patent. The Patent Office shall issue the author of the invention, other than the patent owner, a certificate.

26.3. The form of the patent and the content of information therein shall be determined by the Patent Office.

26.4. At the request of the patent owner the Patent Office shall make corrections of clear and technical mistakes in the patent.

ARTICLE 27. WITHDRAWAL OF AN APPLICATION

The applicant shall have the right, before the publication of information about the application for an invention, utility model or industrial design, but not later than the date of registration, to withdraw the application.

ARTICLE 28. CONVERSION OF APPLICATIONS

Before the publication of information about the application for invention the applicant shall have the right to convert it into an application for a utility model by way of filing an appropriate request. Conversion of the application for a utility model into the application for an invention shall be possible before the decision on the issue of certificate is made.

Upon the abovementioned conversions of applications the priority of the first application shall be retained.

SECTION 6. TERMINATION OF A PATENT

ARTICLE 29. OPPOSITION TO A PATENT

29.1. A patent may be contested and invalidated, fully or partially, during its term in cases when:

- a) a protected solution does not comply with the conditions of patentability specified in the present Provision;
- b) the claims of an invention, utility model, industrial design include features that were absent from the initial materials of the application;
- c) the author(s) or the patent owner wrongly named in the patent;

A person lodging an appeal shall be obliged to motivate it, and also shall submit a document certifying the payment of the fee.

29.2. An opposition to the grant of a patent on the grounds, listed in subparagraphs 1a, 1b of this Article, shall be considered by the Patent Office within six months from the date of its receipt; the patent owner shall be acquainted with the opposition. A person who has lodged an opposition, as well as the patent owner may participate in its consideration. In this case the Patent Office shall not overreach the motives contained in the opposition to the grant of a patent.

Decision of the Patent Office on opposition to the grant of a patent for a utility model shall be final.

29.3. In the event of disagreement with the decision of the Patent Office on opposition to the grant of a patent for an invention or industrial design any party within six months from the moment of making decision may appeal to the court whose decision shall be final.

ARTICLE 30. EARLY TERMINATION OF A PATENT

30.1. A patent shall be terminated early:

- where a patent is recognized as completely invalid in accordance with Article 29 of this Provision;
- on the basis of an application filed by the patent owner with the Patent Office;
- in the event of failure to pay, within a set period of time, the fee for maintenance of the patent in force;

30.2. The Patent Office shall publish information about early termination of the patent validity in the Official Bulletin.

SECTION 7. RIGHTS AND PRIVILEGES OF INVENTORS

ARTICLE 31. A RIGHT FOR REMUNERATION OF THE AUTHOR, OTHER THAN THE PATENT OWNER

31.1. A remuneration for use of an invention, a utility model, an industrial design during the term of the patent shall be paid to the author on the basis of contract with the employer who has obtained the patent, or his assignee in the amount of not less than 50 percent of the profit (a corresponding part of the income), annually obtained by the patent owner from his use, and not less than 50 percents of the earnings from sale of license without limitation of the maximal rate of remuneration.

Remuneration for the use of an invention the utility effect of which is not expressed in the profit or income shall be paid to the author in the amount of not less than 4 percents from a share of the cost value of product (works and services), coming to such invention.

The rate of interest shall be determined by the patent owner on the agreement with the author.

31.2. Remuneration to the author of the invention the patent for which is granted to the State Fund of Inventions of the Republic of Tajikistan, shall be paid by this Fund in the amount determined in the agreement with the author, but not less than 50 percent of earnings from sale of license for the given invention.

31.3. Remuneration shall be paid to the author not later than three months after the expiry of each year in which the invention was used, and not later than three months after receipt of earnings from the licenses.

31.4. In the event of realization of the invention, patented in the Republic of Tajikistan, in foreign countries, including sale of licenses and export of products remuneration to the author shall be paid in foreign currency at his will.

31.5. The author of an invention the patent for which is granted to an enterprise shall be paid by the patent owner, within a month from the date of receipt of patent, an incentive remuneration that shall not be taken into account at the subsequent payments. The amount of the incentive remuneration for an invention (irrespective of the number of co-authors) shall not be less than average monthly income of the worker of the given enterprise.

ARTICLE 32. RESPONSIBILITY FOR THE DELAYED PAYMENT OF REMUNERATION

For the delayed payment of remuneration the patent owner responsible for this shall pay the author a fine corresponding to the current interests of a bank for each day of the delay.

ARTICLE 33. OTHER RIGHTS AND PRIVILEGES

33.1. The author of an invention shall have to confer his name or a special title to the invention.

33.2. In payment of remuneration for the used invention the author shall have the right for a tax exemption in accordance with the legislation of the Republic of Tajikistan.

SECTION 8. PROTECTION OF THE RIGHTS OF PATENT OWNERS AND AUTHORS

ARTICLE 34. CONSIDERATION OF DISPUTES JUDICIALLY

Disputes relating to the application of the present Provision shall be considered in the order established by the legislation of the Republic of Tajikistan.

Courts shall consider the following disputes in accordance with their competence:

- disputes over the authorship of an invention, utility model, industrial design;
- disputes over patent ownership;
- disputes over infringement of exclusive right to use a protected subject of industrial property and other proprietary rights of the patent owner;
- disputes over conclusion and execution of license contracts for the use of protected subject of industrial property;
- disputes over the right of prior use;
- disputes over remuneration payable to the author by the enterprise according to the contract specified in Point 2 of Article 8 of this Provision;
- disputes over compensations provided for by the present Provision, except for a case specified in Article 13(5);
- other disputes related to protection of rights, ensuing from a patent and a certificate.

Disputes arising in connection with realization of employment law of authors shall be considered in accordance with the law of the Republic of Tajikistan on the procedure for consideration of labour disputes.

ARTICLE 35. LIABILITY FOR AN INFRINGEMENT OF AUTHORS' RIGHTS

Usurpation of authorship, coercion to co-authorship and illegal disclosure of information about a subject of industrial property shall entail liability in accordance with the legislation of the Republic of Tajikistan.

SECTION 9. FINAL PROVISIONS

ARTICLE 36. PATENT FEES

36.1. Filing of an application for the grant of a patent, examination and grant of a patent, its maintenance in force, extension of a patent, as well as other legally significant actions related to the patent shall be levied a fee. The full list of actions for which fees shall be charged, their amounts and terms of payment, and the grounds for exemption from payment of fees, rebates of such fees or their refund shall be established by the Government of the Republic of Tajikistan.

36.2. The fees shall be paid by the applicant, patent owner or, in agreement with them, by any physical person or legal entity.

ARTICLE 37. PATENTING OF OBJECT OF INDUSTRIAL PROPERTY IN FOREIGN COUNTRIES

Patenting of inventions, utility models and industrial designs in foreign countries and the states of Commonwealth shall be made by physical persons or legal entities after filing an application with the Patent Office of the Republic of Tajikistan, and the applicant should notify about his intention of patenting in foreign countries and the states of Commonwealth.

ARTICLE 38. RIGHTS OF FOREIGN PHYSICAL AND LEGAL PERSONS

Foreign physical persons and legal entities shall enjoy the rights provided for by this Provision on an equal basis with physical and legal persons of the Republic of Tajikistan or on the basis of the principle of reciprocity.

ARTICLE 39. INTERNATIONAL AGREEMENTS

If an international agreement of the Republic of Tajikistan have established other than these rules that are included in the present Provision, the rules of international agreement shall be applied.