

S.I. 87 of 2014

INDUSTRIAL PROPERTY ACT, 2014

(Act 7 of 2014)

Industrial Property (Industrial Design) Regulations, 2014

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Industrial Property (Industrial Design) Regulations, 2014

In exercise of the powers conferred by section 125 of the Industrial Property Act, 2014, the President being the Minister responsible for Legal Affairs hereby makes the following regulations—

1. These regulations may be cited as the Industrial Property (Industrial Design) Regulations, 2014. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

“Act” means the *Industrial Property Act, 2014 (Act 7 of 2014)*;

“agent” means a person or firm appointed by an applicant to act on his or her behalf for the purposes of these regulations;

“Form” means a Form set out in Schedule 1 appended to these regulations;

“registered owner”, in respect of an industrial design, means the person whose name appears in the register of industrial designs as the owner of the industrial design;

“representative for service” means a person or firm in Seychelles who is appointed by an applicant or registered owner to receive any notice or on whom documents are to be served on behalf of the

applicant or registered owner for the purposes of these regulations.

Fees and classification of industrial design

3.(1) The fees to be paid under these regulations shall be as provided under column (3) of Schedule 2 to these regulations for a service mentioned under column (2) of that Schedule.

(2) The fees specified in Schedule 2 shall be paid to the Registrar by such means and in such manner as the Registrar may direct.

(3) For the purposes of the registration of industrial designs, goods and services are classified in the manner specified in Schedule 3.

Application for registration of industrial design

4. An application for registration of an industrial design under section 44 of the Act shall be made in the Form ID-1 along with the fee specified in Schedule 2.

Naming of creator

5.(1) The creator of the industrial design may request in writing to the Registrar that he or she does not want to be named in the application or on the certificate of registration.

(2) The Registrar shall act accordingly and confirm this to the applicant in writing.

Right of priority

6. An applicant claiming a right of priority under section 44(7) of the Act shall file with the application referred to in regulation 4 a copy of the earlier application certified as correct by the office with which it was filed.

Documents and materials

7.(1) All documents filed with the Registrar shall be clear and legible and be presented so as to permit direct reproduction of the initial application.

(2) Each document filed in paper form shall be printed —

(a) on one side only;

- (b) on white paper, except for photographs; and
- (c) on paper that measures between 20 cm and 22 cm in width and between 25cm and 36 cm in length.

(3) Any industrial design which is three dimensional, whether fully or in part, shall clearly state so on the document or material.

(4) All documents filed in electronic form in connection with an application for registration of industrial design shall be in the electronic format specified by the Registrar and subject to the terms and conditions specified by the Registrar.

8.(1) The applicant who is not domiciled or who has no established business in Seychelles shall, as required by section 44(8) of the Act, appoint an agent who is domiciled in Seychelles.

Agent

(2) An application for registration of an industrial design may be made by an agent of the applicant and the power of attorney in respect of the appointment of the agent by the applicant shall be submitted prior to the issuing of the certificate of registration of the industrial design.

(3) The appointment of an agent may be revoked by the applicant by submitting to the Registrar a notice of revocation signed by the applicant.

9.(1) Where the Registrar registers an industrial design, the Registrar shall —

Certificate
of
registration

- (a) register the details of the industrial design in the register of industrial designs; and
- (b) issue a certificate of registration of the

industrial design upon payment of the fee specified in Schedule 2.

(2) The Registrar shall keep a Register of Industrial Designs for making entries of designs registered under the Act.

(3) The Registrar shall cause to be entered in the Register in respect of every design—

- (a) the address for service;
- (b) the date on which the registration of industrial design expired or was surrendered or revoked;
- (c) any change in name, address, address for service or ownership;
- (d) the fact that a license contract has been concluded and recorded in the Register pursuant to regulation 14;
- (e) the grant of any non-voluntary license with respect to the patent pursuant to section 51 of this Act and the terms, variation of terms and termination thereof; and
- (f) any order of the court, if any.

(4) The Registrar may at any time enter in the Register of Industrial Design such other particulars as he or she may think fit.

Renewal of
registration of
industrial
design

10.(1) The owner of the registered industrial design may apply to the Registrar, within 90 days prior to the expiry of the registration period specified under section 48(1) of the Act, for renewal of the registration of the industrial design in Form ID-2 along with the fee specified in Schedule 2.

(2) The renewal of the industrial design may only be for a further two consecutive periods of 5 years, after the expiry of the first registration period.

(3) Where an applicant applying for renewal of registration of the industrial design fails to pay the fee within the period mentioned in subregulation (1), the applicant shall pay a surcharge fee specified in Schedule 2 within 6 months from the expiry of the period.

11.(1) The registered owner of an industrial design may surrender the registration of the industrial design upon filing a written declaration stating therein the reference number to the Registrar who shall —

Surrender of
industrial
design
registration
certificate

- (a) amend the register of industrial design and make necessary entries in the register in respect of the surrender; and
- (b) publish the details of surrender of the registration, including the reference number, in the *Gazette*.

(2) Where the industrial design is subject to a license, the surrender of the registration of such industrial design shall take effect upon submission of a written declaration by which the registered licensee consents to the surrender.

(3) An agent having a written and signed letter of authorisation from the owner of the industrial design to surrender a registration of industrial design, may surrender the registration of the industrial design.

12. Where a court has declared the registration of any industrial design invalid under section 50 of the Act, the Registrar shall, on receipt of the order of the court invalidating the registration —

Invalidation of
registration of
industrial
design

- (a) amend the entries in the register of industrial designs in respect of the industrial design as ordered;
- (b) retain a copy of the order of the court in file; and
- (c) publish, as soon as possible, the decision of invalidation of registration of the industrial design in the *Gazette*.

Non-voluntary
licence

13.(1) An application for non-voluntary licence of an industrial design shall be made to the Registrar in writing containing a statement giving the evidence that the applicant was unable to obtain a licence in accordance with section 24(2) of the Act.

(2) The application for non-voluntary licence shall be made in Form ID-3 accompanied with a fee specified in Schedule 2.

(3) The Registrar may, if satisfied that the applicant has complied with the provisions of the Act, grant a non-voluntary licence to the applicant and enter the non-voluntary licence in the register of industrial designs and publish the licence in the *Gazette*.

Recording of
licence

14.(1) The owner and the joint owners of a registered industrial design may together apply to the Registrar to record a licence concerning an industrial design or the application for the registration of licence of an industrial design in Form ID-4 along with the fee specified in Schedule 2.

(2) The application to record a licence referred to in subregulation (1) shall contain the following—

- (a) name and address of the licensor and licensee;

- (b) reference number of the industrial design;
- (c) terms of the licence; and
- (d) type of licence (exclusive, non-exclusive and sole).

(3) The owner of the registered industrial design or the licensee may at any time during the pendency of the licence apply to the Registrar for any change or alteration of the licence or terms and conditions thereof.

(4) The Registrar may, on being satisfied with the application for the change or alteration of licence or terms and conditions thereof, alter the register accordingly and publish the change or alteration in the *Gazette*.

(5) A licence concerning an industrial design or the application for registration of the licence of the industrial design shall have no effect against third party until it has been recorded in the register of industrial designs.

15.(1) The holder or the new owner of a registered industrial design may apply to the Registrar for any change in the ownership of the registration of the industrial design in the Form ID-5 along with the fee specified in Schedule 2.

Change of
ownership

(2) The application for the change in the ownership of the industrial design shall contain the following—

- (a) names and address, residential status, details if company or firm, of both the holder and the new owner;
- (b) registration numbers (domestic or international);

- (c) copy of the contract transferring ownership and relevant letters;
- (d) appointment of a representative by the new owner;
- (e) nature of the change of ownership;
- (f) miscellaneous indications;
- (g) signature by the holder or authorised agent; and
- (h) the details of the payment of the requisite fee.

(3) The Registrar may, on being satisfied, alter the entries in the register of industrial designs accordingly and publish the change in the *Gazette*.

(4) A change in the ownership of an industrial design or an application shall have no effect against third party until it has been recorded in the register of industrial designs.

Translations

16.(1) Every application and document under these regulations shall be in English or be accompanied with a certified English translation.

(2) The Registrar shall refuse any application or document which is not in English unless the applicant submits to the Registrar a certified translation of the application or document into English.

Inspection of
register for
industrial
designs

17. Any person may inspect the register of industrial designs and may obtain extract therefrom, by submitting an application in Form ID-6 along with a fee specified in Schedule 2.

18. In case of any infringement of the industrial design, any action may be brought in accordance with sections 107 to 120 of the Act. Infringement

SCHEDULE 1

(Regulation 2)

FORM ID-1

[Regulation 4]

<p>APPLICATION FOR THE REGISTRATION OF AN INDUSTRIAL DESIGN, under section 44 of the Industrial Property Act, 2014. FORM ID-1</p>	<p>For official use only Application No: Fees paid on: Application received on:</p>
<p>The applicant hereby requests the registration of the industrial design described below</p>	
<p>PART I I, the applicant (name of applicant, nationality, residence and passport number), whose complete address is do hereby requests the registration of a design for a of which the applicant is the owner.</p>	
<p>Signature: Dated:</p>	

If a joint owner, give other owners names, addresses, nationality and passport number &&&

Signatures..... Dated:

If claiming a right of priority under section 44(7) of the Act enclose a copy of the earlier certificate as corrected by the office with which it was filed:

PART II

DETAILS OF DESIGN.

Title

The following are attached (Three copies not exceeding 10cm x 15cm)

- (i) Two dimensional design One or two photographs or graphic Representations
(ii) Three dimensional design One or two drawings or tracings.

PART III

PRODUCT

The kind of products for which the industrial design is to be used:

Class:

PART IV

Claim of Priority (if any)

Country:

Application No.

Filing Date

PART V

Address for service in Seychelles:

.....

.....

PART VI

TO BE COMPLETED ONLY IF AN APPLICANT HAS AN AGENT

Name of agent

Address of agent

Telephone Fax E-mail

Name of representative for service

Address in Seychelles of representative for service

If an applicant has no place of business in Seychelles, the name and address of a REPRESENTATIVE FOR SERVICE in Seychelles must be provided. The Agents Power of Attorney with its scope should be included.

PART VII	
Creator of the Industrial Design	
Whether the applicant or not	
If not the applicant, the name and address of the creator.	
Willingness of the creator(s) to forgo the name(s) being used in the registration (if applicable)	<p>I/We:</p> <p>of.....</p> <p>.....</p> <p>Being the creator/creators of the industrial design which is the subject matter of the application herein indicate my/our willingness to forgo my/our name(s) being used in the registration.</p> <p>Signature(s).....</p>
Creator of the Industrial Design	
PART VIII	
Declaration of Novelty	I, being the applicant declare that to the best of my knowledge the industrial design is new as provided in section 40 of the Act.
Dated:..... Signature of the Applicant or Agent

FORM ID-2

[Regulation 10(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014</p> <p>Industrial Property (Industrial Design) Regulations, 2014</p> <p>APPLICATION FOR RENEWAL OF REGISTRATION OF INDUSTRIAL DESIGN</p> <p>FORM ID-02</p>	<p>For official use only:</p> <p>Date received on:</p> <p>Fee paid on:</p>
Registered number:	
Class	
Registered owner	

FORM ID-4
[Regulation 14(1)]

APPLICATION FOR RECORDING OF LICENCE CONCERNING INDUSTRIAL DESIGN under section 52 of the Industrial Property Act, 2014 FORM ID-4	For official use only: Date of Registration: Fee paid on:
Application No. :	Filing Date:
Applicant/owner of the Design	
Name:	
Address:	
hereby requests the recording of a license of an industrial design _____ which the applicant is the owner. The details of the registered industrial design is as under ---	
Signature: _____ Dated: _____	
Registered Number	
Registered Owner	
Details of industrial design	
Date of application for registration	
Agent if any	
DETAILS OF LICENSEE	
Name:	
Address:	
Postal address for Service, if non-resident:	
Telephone	Fax
E-mail	
A copy of the deed of licence accompanies this application.	
A copy of the licence contract or the particulars to be recorded are annexed.	
.....	
Signature of Applicant/Owner/or Agent	Place and date

.....		
Signature of r/Licensee/Agent		Place and date
Agent:		
Address:		
Telephone:	Fax	E-mail

FORM ID-5
[Regulation 15(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014 Industrial Property (Industrial Design) Regulations, 2014</p> <p>APPLICATION FOR RECORDING OF CHANGE IN OWNERSHIP OF INDUSTRIAL DESIGN under section 53 of the Industrial Property Act, 2014</p> <p>FORM ID-5</p>	<p>For official use only: Date of Registration: Fee paid on:</p>
IDENTIFICATION OF THE APPLICATION/DESIGN	
Application No. :	Filing Date:
Applicant/owner of the Design	
Name:	
Address:	
The undersigned hereby applies for the recording of the transfer of the ownership of the industrial design as detailed below—	
Registered Number:	
Registered Owner:	
Agent, if any:	
Details of Industrial Design	
The extension of registration (first or second):	
NEW OWNER	
Name:	
Address:	
Postal address for Service, if non-resident:	

Telephone:	Fax:	E-mail:
A copy of the deed of change/transfer of the ownership is accompanied with this application		
..... Signature of Applicant/Owner/or Agent Place and date	
Signature of New Owner	Place and date	
Agent:		
Address:		
Telephone:	Fax:	E-mail:

FORM ID-6

[Regulation 17]

INDUSTRIAL PROPERTY ACT, 2014 Industrial Property (Industrial Design) Regulations, 2014 REQUEST FOR INSPECTION OF THE REGISTER OF INDUSTRIAL DESIGNS OR FOR OBTAINING ANY EXTRACT THEREFROM. FORM ID-6	For official use only: Notice received on: Fees paid on: Application No:
Applicants Name, nationality:	
Address:	
Tele/Fax/E-mail	
Name of the owner of the Industrial Design	
Industrial Design Number being sought	
Date and No of Gazette Notification	
Details of the Industrial Design inspection or extract thereof being sought (Add extra papers where necessary)	

Addresses for service in Seychelles (if applicable)	
Agent	
Name	
Address	
Tele/Fax/E-mail	
Date Signature of the Applicant/Agent.

SCHEDULE 2

(Regulation 3(1))

FEES

Serial No.	Service in respect of which fee is payable	Fees in Seychelles Rupees
(1)	(2)	(3)
1	Application for registration of an industrial design.	2000
2	Certificate of registration of industrial design	500
3	Renewal of registration of industrial design for each 5 years period	2000
4	Surcharge fee for failing to pay the renewal fee in time	500
5	Application for non-voluntary licence	500
6	Application for recording of licence in the register of industrial designs	200
7	Application for recording of change in the ownership, etc., of an industrial design	200
8	Application — (a) to inspect the register of industrial designs; (b) to obtain extract therefrom (per page or part thereof)	

SCHEDULE 3

[Regulation 3(3)]

CLASSIFICATION OF INDUSTRIAL DESIGNS

- CLASS 1: FOODSTUFFS
- CLASS 2: ARTICLES OF CLOTHING AND HABERDASHERY
- CLASS 3: TRAVEL GOODS, CASES, PARASOLS AND PERSONAL BELONGINGS, NOT ELSEWHERE SPECIFIED
- CLASS 4: BRUSHWARE
- CLASS 5: TEXTILE PIECEGOODS, ARTIFICIAL AND NATURAL SHEET MATERIAL
- CLASS 6: FURNISHING
- CLASS 7: HOUSEHOLD GOODS, NOT ELSEWHERE SPECIFIED
- CLASS 8: TOOLS AND HARDWARE
- CLASS 9: PACKAGES AND CONTAINERS FOR THE TRANSPORT OR HANDLING OF GOODS
- CLASS 10: CLOCKS AND WATCHES AND OTHER MEASURING INSTRUMENTS, CHECKING AND SIGNALLING INSTRUMENTS
- CLASS 11: ARTICLES OF ADORNMENT
- CLASS 12: MEANS OF TRANSPORT OR HOISTING
- CLASS 13: EQUIPMENT FOR PRODUCTION, DISTRIBUTION OR TRANSFORMATION OF ELECTRICITY
- CLASS 14: RECORDING, COMMUNICATION OR INFORMATION RETRIEVAL EQUIPMENT
- CLASS 15: MACHINES, NOT ELSEWHERE SPECIFIED
- CLASS 16: PHOTOGRAPHIC, CINEMATOGRAPHIC AND OPTICAL APPARATUS
- CLASS 17: MUSICAL INSTRUMENTS
- CLASS 18: PRINTING AND OFFICE MACHINERY

- CLASS 19: STATIONERY AND OFFICE EQUIPMENT, ARTISTS' AND TEACHING MATERIALS
- CLASS 20: SALES AND ADVERTISING EQUIPMENT, SIGNS
- CLASS 21: GAMES, TOYS, TENTS AND SPORTS GOODS
- CLASS 22: ARMS, PYROTECHNIC ARTICLES, ARTICLES FOR HUNTING, FISHING AND PEST KILLING
- CLASS 23: FLUID DISTRIBUTION EQUIPMENT, SANITARY, HEATING, VENTILATION AND AIR-CONDITIONING EQUIPMENT, SOLID FUEL
- CLASS 24: MEDICAL AND LABORATORY EQUIPMENT
- CLASS 25: BUILDING UNITS AND CONSTRUCTION ELEMENTS
- CLASS 26: LIGHTING APPARATUS
- CLASS 27: TOBACCO AND SMOKERS' SUPPLIES
- CLASS 28: PHARMACEUTICAL AND COSMETIC PRODUCTS, TOILET ARTICLES AND APPARATUS
- CLASS 29: DEVICES AND EQUIPMENT AGAINST FIRE HAZARDS, FOR ACCIDENT PREVENTION AND FOR RESCUE
- CLASS 30: ARTICLES FOR THE CARE AND HANDLING OF ANIMALS
- CLASS 31: MACHINES AND APPLIANCES FOR PREPARING FOOD OR DRINK, NOT ELSEWHERE SPECIFIED
- CLASS 32: GRAPHIC SYMBOLS AND LOGOS, SURFACE PATTERNS, ORNAMENTATION

MADE this 20th day of October, 2014.

**JAMES A. MICHEL
PRESIDENT**
