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S T A T U T O R Y I N S T R U M E N T S

2017 No. 12.

THE INDUSTRIAL PROPERTY REGULATIONS, 2017.

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S T A T U T O R Y I N S T R U M E N T S

2017 No. 12.

The Industrial Property Regulations, 2017.

(Under section 103 of the Industrial Property, Act, 2014, Act No. 3 of 2014)

IN EXERCISE of the powers conferred upon the Minister responsible for justice by section 103 of the Industrial Property Act, 2014, these Regulations are made this 10th day of March, 2015.

PART I—PRELIMINARY

1. Title.

These Regulations may be cited as the Industrial Property Regulations, 2017.

2. Interpretation.

In these Regulations, unless the context otherwise requires—

“Act” means the Industrial Property, Act, 2014;

“Bureau” means the Uganda Registration Services Bureau established by the Uganda Registration Services Bureau Act;

“court” means the High Court of Uganda;

“industrial property rights” mean rights under patents, certificates of utility models and technovation and registration of industrial designs issued under this Act;

“Journal” means the Industrial Property Journal;

“register” means the register of industrial property.

3. Non application to pharmaceutical products.

(1) These Regulations shall not apply to pharmaceutical products.

(2) For the avoidance of doubt, the registrar shall not accept an application to register a patent, utility model, industrial design or technovation relating to pharmaceutical products, micro-biological products and processes for producing pharmaceutical products, until 1st January 2016, or such other period as may be granted to Uganda or least developed countries by the council responsible for administering the agreement on trade related aspects of intellectual property under the World Trade Organization.

PART II—REGISTER OF INDUSTRIAL PROPERTY

4. Register of industrial property.

(1) For the purposes of section 5 of the Act, the registrar may, in the register of industrial property applications and the register for industrial property rights, separate applications or grants relating to—

- (a) patents;
- (b) utility models;
- (c) industrial designs; and
- (d) technovations.

(2) The register for industrial property applications shall contain—

- (a) the application number and the filing date of the application;
- (b) the name and address of the applicant;
- (c) the title of the invention;
- (d) the industrial property right claimed by the applicant;
- (e) the name and address of the inventor unless the inventor has indicated that they wish not to be named in the application under section 20 of the Act;
- (f) where priority is claimed, the priority date and the name of the country in which or for which the earlier application was filed;
- (g) the date of the request for an examination submitted under section 31(2) of the Act;

- (h) the date of publication of the application;
- (i) the address for service of the applicant;
- (j) if the applicant dies, a notice of that fact; and
- (k) any other information required under the Act or these Regulations or that the registrar considers appropriate.

(3) The register for industrial property rights granted under the Act shall contain—

- (a) the number of the industrial property right granted;
- (b) the name and address of the owner of the industrial property right;
- (c) the date of the grant of the industrial property right;
- (d) any conditions attached to the grant;
- (e) the address for service of the owner of the industrial property right;
- (f) any change in ownership of the industrial property right;
- (g) any information relating to lapse of the industrial property right;
- (h) information relating to revocation or invalidation of industrial property rights; and
- (i) any other information required under the Act or these Regulations or that the registrar considers appropriate.

(4) A person who wishes to obtain an extract from the industrial property register shall make a request in Form 1.

5. The Industrial Property Journal.

(1) The registrar shall publish a journal known as “The Industrial Property Journal”.

(2) The Journal shall contain reports of cases relating to industrial property rights whether in Uganda or elsewhere and any other information relating to industrial property or contained in the register of industrial property that the registrar considers necessary.

(3) The Journal shall be published monthly or at such other time as the registrar may direct.

(4) The registrar may offer the Journal to the public at a fee determined by the Bureau.

PART IV—PATENTS

Application, grant and refusal of patent

6. Application for a patent.

(1) An application for a patent shall be made to the registrar in Form 2 in the Schedule.

(2) Every application shall be accompanied by the prescribed fee.

(3) The description of the invention under section 21(1)(b) of the Act shall—

- (a) specify the technical field to which the invention relates;
- (b) indicate the background art which, as far as it is known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention and cite the documents reflecting such art; and
- (c) indicate how the invention is industrially applicable.

7. Claims.

(1) The claim shall set out the technical features that are necessary to define the subject matter of the invention that are part of the prior art.

(2) A technical feature set out in a claim shall not rely on a reference to the description or drawings but a reference to a feature may be included if the intelligibility of the claim may be increased by doing so.

(3) A claim shall not include a drawing but may include chemical or mathematical formulae.

(4) Subject to subregulation (5) an application shall not include more than one claim.

(5) An application may include two or more independent claims if each independent claim relates to a single product or a single process.

(6) Where more than one claim is included in the application, the claims shall be numbered consecutively

(7) An application may include a claim stating the essential technical features of an invention with one or more following claims setting out particular embodiments of the invention.

(8) The following apply to claims described in subregulation (7)—

(a) the claims setting out particular embodiments of the invention shall include a reference to the claim stating the essential technical features of the invention;

(b) the claims setting out particular embodiments of the invention shall state the features that it is desired that those claims protect; and

(c) the claims shall be grouped together to the extent possible and in the most appropriate way.

(9) Where an application contains more than ten claims, the applicant shall pay for each claim beyond the ten as if it is contained in a separate application.

8. Drawings.

The drawings shall comply with the following—

- (a) the lines of the drawings shall be black, durable, uniformly thick and well-defined;
- (b) the drawings, including their scale and the distinctness of their lines, shall be such that all details can be distinguished without difficulty when the drawings are reproduced photographically at two thirds their actual size;
- (c) where the scale is given on a drawing, it shall be given graphically;
- (d) cross sections shall be indicated by hatching that does not impede the clear reading of the reference signs and reading lines;
- (e) where the drawings show a feature mentioned in the description, that feature shall be denoted in the drawings by a reference sign and that reference sign shall be used throughout the application to denote that feature.

9. Abstract.

(1) The title shall indicate the title of the invention.

(2) The abstract shall include a summary of the disclosure included in the description under section 21(5) of the Act.

(3) The abstract shall not include statements about the merits or value of the invention or about uses that are speculative.

(4) Where applicable, the abstract shall include the formula that best characterizes the invention.

(5) The abstract shall not include a drawing, but if the application includes drawings—

- (a) the applicant shall indicate which drawing the applicant suggests should accompany the publication of the abstract; and
- (b) a feature referred to in the abstract shall, if the feature is illustrated in a drawing, be followed, in the abstract, by the reference sign used in the drawing.

(6) Unless it is impractical, the abstract shall not contain more than one hundred and fifty words.

10. General requirements for applications for a patent.

(1) All parts of the application must be prepared so that they are legible when they are photocopied or otherwise reproduced.

(2) Notwithstanding subregulation (1), graphic symbols and characters, and chemical and mathematical formulae may be handwritten but must be dark and indelible.

(3) All terms, signs and symbols used in the application shall be used consistently throughout the application and shall be the terms, signs and symbols generally accepted in the relevant field.

(4) Where anything is expressed in units other than metric units the equivalent in metric units shall also be given.

(5) Every application shall be accompanied by a statement disclosing any foreign applications and their status, if any, relating to the same invention by the applicant.

11. Notice of information prejudicial to security of Uganda.

The notice under section 14(1) of the Act by the registrar to the concerned Minister relating to information which is prejudicial to the security of Uganda or safety of the public contained in an application shall be in Form 3.

12. Directions prohibiting publication of information prejudicial to security of Uganda.

The direction by the registrar prohibiting or restricting the publication of information which is prejudicial to the security of Uganda or safety of the public contained in an application shall be in Form 4.

13. Request for authority to file application abroad.

(1) A request under section 15(1) of the Act for authority to file an application outside Uganda shall be made to the registrar in Form 5.

(2) The authority of the registrar to file an application outside Uganda shall be in Form 6.

14. Unity of inventions.

(1) For the purposes of section 22 of the Act, a group of inventions forms a single general inventive concept if there exists between or among those inventions a technical relationship that involves one or more of the same or corresponding special technical features.

(2) Where the registrar requests an applicant to restrict or divide the application in order to comply with the unity of invention requirements under section 22 of the Act, the request shall indicate that the applicant may restrict or divide the application within sixty days after the date of the request by the registrar.

(3) For the purposes of this regulation, “special technical features” means those technical features that define a contribution that each of the claimed inventions, considered as a whole, makes over the prior art.

15. Amendment and division of application.

(1) An application to amend an application submitted to the registrar shall be in Form 7.

(2) An application shall not be amended more than twice.

(3) The registrar may reject an amendment if the result of the amendment is that the specification would claim or disclose a matter that extends beyond that disclosed in the complete filed specification.

(4) Where an application is divided under section 23(2) of the Act—

- (a) the filing date for each divisional application shall be the filing date of the initial application;
- (b) any declaration of priority in the initial application shall be deemed to be included in each divisional application; and
- (c) the applicant shall pay the application fee and any other fees payable in respect of the additional applications resulting from the division.

16. Declaration claiming priority.

(1) The declaration claiming priority under section 24 of the Act shall include, in respect of each earlier application—

- (a) the date and number of the earlier application;
- (b) the symbol of the international patent classification that was assigned to the earlier application or, if no such symbol has been assigned, a statement of that fact;
- (c) if the earlier application was a national application, the name of the state in which it was filed; and
- (d) if the earlier application was a regional or international application, the name of the office in which it was filed and the name of the state for which it was filed.

(2) Where the number of the earlier application, as required under subregulation (1)(a), is not known at the time of making the declaration, the declaration shall include a statement of that fact and the declaration shall be amended to include the number within ninety days after the application containing the declaration is made.

(3) A certified copy of the earlier application required by the registrar under section 24(4) of the Act shall be furnished within ninety days after the requirement was made.

(4) Where it is discovered that the date given to the earlier application was incorrect, the following apply—

- (a) the registrar shall invite the applicant to provide the correct date; and
- (b) the registrar shall disregard the claim for priority unless the applicant provides the correct date within ninety days after the date of the invitation to provide the correct date and that correct date is within the period of priority provided under the Paris Convention.

17. Waiver of fees.

(1) An application to the registrar to waive fees payable under the Act or regulations made under the Act shall be in Form 8.

(2) The payment of any fees for which a waiver is sought shall be deferred pending the decision by the registrar.

(3) The registrar shall communicate the decision to the applicant within fifteen days.

(4) Any deferred fees that have not been waived by the registrar shall be paid within sixty days after the date of that communication.

18. Withdrawal of application.

(1) A withdrawal of an application under section 27 of the Act shall be in Form 9.

(2) Where there is more than one applicant, the application may only be withdrawn with the consent of all the applicants.

19. Filing date and examination of the form of an application.

(1) An invitation by the registrar to furnish missing drawings or make corrections under section 28 (2) or (3) of the Act shall be made within fourteen days after the invitation is made.

(2) The registrar shall give the applicant sixty days from the date of the invitation to furnish the missing drawings or correct the application.

(3) Where the registrar determines that the applicant has not complied with an invitation referred to in section 28(2) or (3) of the Act and, treats the application as if it had not been filed under section 28(3) of the Act, the registrar shall, within fourteen days after his determination, inform the applicant of the registrar's decision.

(4) An applicant shall be entitled to only one correction of the application unless the registrar directs otherwise.

20. Filing date.

Where the registrar invites the applicant to furnish missing drawing or file corrections, the filing date of the application shall be the date of receipt of the missing drawings or corrections.

21. Confidentiality of application before publication.

(1) The registrar shall keep information about a patent application confidential until the application is published.

(2) This regulation does not apply to—

- (a) the application number;
- (b) the name of the applicant;
- (c) the filing date of the application;
- (d) if priority is claimed, the priority date and the name of the state in which or for which the earlier application was filed and the number of the earlier application; and
- (e) the title of the invention.

22. Publication of application.

The registrar shall publish the following particulars in respect of each application for a patent—

- (a) the application number;
- (b) the name and address of the applicant;
- (c) the name and address of the inventor unless he or she has indicated that he wishes not to be named in the application under section 20 of the Act;
- (d) the name and address of the agent, if any;
- (e) the filing date of the application;
- (f) if priority is claimed, the priority date and the name of the state in which or for which the earlier application was filed;
- (g) the symbol of the international patent classification;
- (h) the title of the invention;
- (i) the abstract;
- (j) if applicable the international non-proprietary name of the product;

23. International type search.

(1) Within thirty days after receiving a report on an international type search, the registrar shall send a copy of the report to the applicant.

(2) The time limit, referred to in section 30(3) of the Act, for the applicant to furnish a requested copy of a document, is ninety days after the date of the request.

(3) Where applicant does not furnish a copy of the document cited in the report, the applicant shall inform the registrar within ninety days from the date of the request to furnish a copy of the document.

(4) Where the registrar rejects an application under section 30(2), (3), (4) or (5) of the Act, the registrar shall, within thirty days after doing so, notify the applicant of the rejection.

(5) The time limit for appealing a decision by which the registrar rejects an application under section 30(2), (3), (4) or (5) of the Act is ninety days after the date of the notice of the rejection.

24. Examination as to substance.

(1) A request for an application to be examined under section 31(2) of the Act shall be in Form 10.

(2) Where an application is on the existing patent the examination shall take into account the existing patent and consider whether there are substantial improvements between the claim in the application and the patent.

(3) Where the registrar submits the application for examination under section 31(4) of the Act, the registrar shall also submit—

- (a) the report of any search, within thirty days after the report is submitted to the registrar;
- (b) if priority is claimed, foreign documents relating to the invention;
- (c) an explanation as to whether the invention is patentable or not; and
- (d) any other document the registrar considers relevant.

25. Notification of refusal to grant patent.

(1) The notification by the registrar of a refusal to grant a patent shall be made within fifteen days after the decision to refuse the application is made.

(2) The notification shall be in Form 11 in Schedule.

26. Notification of grant of patent.

(1) The notification by the registrar of a grant of a patent shall be made within fifteen days after the decision is made.

(2) The notification shall be in Form 11 in Schedule.

27. Grant of patent.

(1) Upon notification of the grant of a patent, the applicant shall pay the fees for the grant of a patent.

(2) Upon payment of the fees, the registrar shall issue to the applicant the patent in Form 12 in Schedule.

28. Publication of grant of patent.

Within thirty days after issuing the patent, the registrar shall publish the following particulars in respect of the patent—

- (a) the number of the patent;
- (b) the name and address of the owner of the patent;
- (c) the name and address of the inventor unless he or she has indicated that he wishes not to be named in the application under section 20 of the Act;
- (d) the name and address of the agent, if any;
- (e) the filing date of the application;
- (f) if priority was claimed and accepted, a statement of the priority, the priority date and the name of the state in which or for which the earlier application was filed;
- (g) the date of the grant of the patent;
- (h) the symbol of the international patent classification;
- (i) the title of the invention;
- (j) the abstract.

International applications

29. Filing requirements for international or regional application.

All international applications shall be—

- (a) in triplicate;
- (b) in English; and
- (c) accompanied by the prescribed fees for transmitting the application.

30. Entry of international application to national phase.

(1) An international application in which Uganda is designated shall, on request, be treated as an application under the Act if the conditions set out in Article 22 or 39 of the Patent Co-operation Treaty and the applicable rules under that Treaty are satisfied.

(2) A request under subregulation (1) shall be in Form 13.

31. Conversion of refused international application.

(1) An international application in which Uganda is designated shall, on request, be treated as an application under the Act if a refusal, declaration or finding described in Article 25 of the Patent Co-operation Treaty was made and the refusal, declaration or finding was the result of an error or omission on the part of the receiving Office or the International Bureau.

(2) A request under subregulation (1) shall be in Form 14 and shall be accompanied by a statement of the facts upon which the applicant relies.

(3) The date of filing, for the purposes of the treatment of an international application as a national application, shall be the date of filing of the international application under the Patent Co-operation Treaty.

32. Conversion of refused regional application.

(1) A regional application in which Uganda is designated and that has been refused by the Secretariat of ARIPO shall, on request, be treated as an application under the Act if the Secretariat of ARIPO transmits to the registrar—

- (a) a request made by the applicant to the Secretariat of ARIPO that the application be treated, in Uganda, as an application under the Act; and
- (b) a copy of the files relating to the application.

(2) A request to have a regional application treated as an application under the Act shall be in Form 15.

(3) The date of filing, for the purposes of the treatment of a regional application as a national application, shall be the date of filing of the regional application under the Harare Protocol.

33. Publication of certain international applications.

(1) The registrar shall publish—

- (a) an international application in which Uganda is designated within sixty days after the application enters the national phase; and
- (b) a regional application in which Uganda is designated within thirty days after Uganda is notified of being designated in the regional application under the Harare Protocol.

(2) The publication of an application under subregulation (1) shall be in the Gazette.

Rights and obligations of the applicant or the owner of the invention

34. Parallel importation.

The limitation on the rights under a patent in section 43(2) of the Act applies to acts in respect of articles that are imported from a country where the articles were legitimately put on the market.

35. Annual fees.

(1) The annual fees shall be payable after one year from the date of filing of the application for the patent.

(2) At least one month before a fee is due, the registrar shall send a reminder that the fee is due to the applicant or the owner of the patent.

(3) A fee paid after it is due but within the grace period granted under section 47(2) of the Act shall be paid by submitting it along with the prescribed surcharge.

(4) For an international application, the only annual fees that are payable are those due from the priority date.

36. Lapse of patent for nonpayment of annual fees.

(1) Where, under section 47(3) of the Act, an application is taken to have been withdrawn or patent lapses, the registrar may send a notification to the persons specified in subregulation (2), within thirty days after the application is deemed to have been withdrawn or the patent lapses.

(2) A notification under subregulation (1) shall be sent to the following persons—

- (a) the applicant or owner of the patent; and
- (b) every registered licensee.

37. Restoration of application or patent.

(1) The following shall apply with respect to a request under section 47(6) of the Act to restore an application or patent—

- (a) the request shall be in Form 16 and shall be accompanied by a statutory declaration or affidavit supporting the statements made in the request;
- (b) if after considering the request, the registrar is not satisfied that the failure to pay the annual fee was not intended, the registrar shall notify the person who made the request;

- (c) the person notified under subparagraph (c) may request a hearing with the registrar within sixty days after the date of the notification and, if the person does so, the registrar shall hear the person before finally deciding whether or not the registrar is satisfied, under section 47(6) of the Act, that the failure to pay the annual fee was not intended; and
- (d) if the registrar makes an order restoring the application or patent—
 - (i) subregulation (3) applies with respect to the payment of the annual fee under section 47(6) of the Act; and
 - (ii) the registrar shall advertise the restoration of the application or patent in the Gazette.

(2) Where an application or patent has lapsed and the time for making a request under section 47(6) of the Act to restore the application or patent has expired without a request being made or a request was made but was denied, the registrar shall, within forty-five days after the time expired or the request was denied, notify the applicant or owner of the lapse and draw their attention to the provisions of section 47(3) of the Act.

Change in ownership

38. Change in ownership of application or patent.

(1) An application to have a change of ownership of a patent recorded in the register shall be in Form 17.

(2) An application to have a change of ownership recorded may be made by the former owner or the new owner.

(3) The application shall be accompanied by the following—

- (a) the instrument effecting the change in ownership; or

- (b) a certificate issued by the Bureau of the change in ownership.
- (4) Upon registration of change of ownership the registrar shall—
 - (a) issue a certificate of the registration of a change in ownership, in Form 18, to the new owner; and
 - (b) publish, in the Gazette, the following information—
 - (i) the date of the application to have the change of ownership recorded;
 - (ii) the name of the former owner;
 - (iii) the name of the new owner; and
 - (iv) the registration number and date of registration of the change in ownership.

(5) The registrar shall ensure that the instrument described in subregulation (3)(a), and its contents, is kept confidential except to the extent that the new owner agrees otherwise.

(6) If the ownership of an application is changed, the new owner shall be taken to be the applicant.

Contractual licences

39. Petition to register licence contracts.

(1) A petition under section 54(2) shall be in Form 20.

(2) The following are prescribed as documents that shall accompany the petition under section 54(2) of the Act—

- (a) the documents constituting the contract; and
- (b) any documents relating to the contract that are necessary to understand or interpret the contract.

40. Registration of contracts.

(1) The certificate of registration under section 56(1) of the Act shall be in Form 21.

(2) In addition to the information required under section 56(5) of the Act, the following shall be set out in the register in relation to a patent—

- (a) the addresses of the persons referred to in section 56(5)(a) of the Act;
- (b) the date the registration takes effect;
- (c) the duration of the contract; and
- (d) if the contract was submitted for registration by an agent, the name and address of the agent.

(3) The additional information set out in subregulation (2) shall be published along with the information that is required to be published under section 56(5) of the Act.

(4) The information required to be published under section 56(5) of the Act shall be published by the registrar.

(5) The registrar shall not register a contract that does not comply with Part X of the Act or these Regulations.

41. Licences as of right.

(1) A request under section 65(1) of the Act to have an entry made shall be in Form 22.

(2) The request shall be accompanied by an undertaking of the owner to grant licences under section 65 of the Act.

(3) Where the registrar notifies a licensee of the request under section 65(2) of the Act the notification shall state the rights of the licensee to object under section 65(3) of the Act.

(4) An objection shall be made within forty five days after the date of the registrar's notification to the licensee of the request.

(5) A licensee may object under section 65(3) of the Act by giving a notice of opposition in Form 23 in duplicate to the registrar.

(6) Regulation 48 shall apply, with necessary modifications, with respect to an objection under section 65(3) of the Act.

(7) The publication of an entry under section 65(4) of the Act shall be in the Gazette.

(8) A request under section 65(7) of the Act to cancel an entry shall be in Form 24.

(9) The publication of a cancellation under section 65(7) of the Act shall be in the Gazette.

Exploitation by Government

42. Exploitation by Government.

(1) An application to the Minister for an order under section 66(1) of the Act shall be in Form 25.

(2) A request under section 66(12) of the Act to have an order revoked shall be in writing.

(3) The minister shall before revoking an order under section 66(12) of the Act consult the relevant ministry or department or Agency.

(4) For purposes of section 66 (7) of the Act the Minister shall cause the contents of the order to be communicated to the owner of the patent with two weeks.

PART V—UTILITY MODELS

43. Application of Regulations to utility models.

(1) Subject to subregulation (2), the regulations on patents shall apply, with necessary modifications, to utility model certificate or applications for them, as the case may be.

(2) Regulations 21, 22, 23(3) and (4) and 24 to 31 do not apply with respect to utility model certificates.

(3) A utility model certificate shall be in Form 26.

PART VI—INDUSTRIAL DESIGNS

44. Register of industrial designs.

(1) The registrar shall record the following in the register of industrial property—

- (a) the registration number of the industrial design;
- (b) the name and address of the owner of the industrial design;
- (c) the title of the industrial design;
- (d) any disclaimer by the applicant limiting the rights conferred by registration; and
- (e) any other information required under the Act or these Regulations or that the registrar considers appropriate.

(2) A person who wishes to obtain an extract from the register in relation to industrial designs shall make a request in Form 27 for a certified copy.

45. Copyrighted designs not registerable.

An industrial design is not registerable if it is protected under the Copyright and Neighbouring Rights Act, 2006.

46. Application to register industrial design.

(1) This Regulation applies with respect to an application to register an industrial design under section 74 of the Act.

(2) The application under section 74(1)(a) of the Act shall be in Form 28.

(3) There shall be a separate application for each industrial design.

(4) The application shall be accompanied by—

(a) an additional copy of the representations required under section 74(1)(c) of the Act; and

(b) a second specimen in addition to the specimen required under section 74(2) of the Act.

(5) The following apply with respect to the representations required under section 74(1)(c) of the Act—

(a) if the application is for a set of articles the representations shall include representations of each article in the set embodying the industrial design;

(b) figures used in the representations shall be in an upright position, unless the registrar is satisfied that it is impractical to do so;

(c) if more than one figure is used to represent an article, all the figures representing the same article shall, unless it is impractical to do so, appear on the same page and shall be labelled to indicate the view they represent;

(d) if the representations are drawings they shall be in ink;

(e) if the industrial design consists of a repeating surface pattern, the representation shall show all of the pattern that is repeated;

(f) only one side of each page of the representations shall be used; and

(g) the name of the applicant.

(6) A statement describing the features of the design which it is claimed are new shall be included on—

- (a) the representations required under section 74(1)(c) of the Act; and
- (b) the specimen required under section 74(2) of the Act.

(7) Where the design includes a reproduction of anything registered under the law or any registered emblem, the application shall be accompanied by the consent to the registration of the reproduction of the arms or emblem from such person as appears to the registrar to be entitled to give such consent.

(8) The following apply if the design includes the name or portrait of a person —

- (a) if the person is living, the application shall be accompanied by the consent of the person to the registration; or
- (b) if the person is dead, the registrar may require the application to be accompanied by the consent of such person as the registrar considers appropriate.

(9) Regulations 15 and 17, (2) and (3) apply, with necessary modifications, with respect to the application under sections 74(7), 23, 24 and 28(2) and (3) of the Act.

47. Publication of application.

The registrar shall publish a notice of an application to register an industrial design in the Gazette.

48. Procedure if opposition to application.

(1) Within ninety days after the notice of the application is published a person may oppose the application by giving a notice of opposition in Form 29 in duplicate to the registrar.

(2) The notice of opposition shall set out the grounds for opposing the application.

(3) The registrar shall give one copy of the notice of opposition to the applicant.

(4) Within thirty days after receiving the notice of opposition, the applicant shall give a counter-statement in Form 30 in duplicate to the registrar.

(5) The counter-statement shall set out the grounds the applicant relies upon to support the application and shall set out any facts alleged in the notice of opposition that the applicant admits.

(6) The registrar shall give one copy of the counter-statement to the person opposing the application.

(7) Within fifteen days after receiving the counter-statement, the person opposing the application shall give to the registrar and to the applicant a statutory declaration or affidavit supporting the opposition to the application.

(8) Within fifteen days after receiving the statutory declaration or affidavit of the person opposing the application, the applicant shall give to the registrar and to the person opposing the application a statutory declaration or affidavit supporting the application.

(9) If the applicant fails to provide a counter-statement under subregulation (4) or a statutory declaration or affidavit under subregulation (8), the application shall be taken to have been withdrawn.

(10) Where the person opposing the application fails to provide a statutory declaration or affidavit under subregulation (7), the opposition to the application shall be taken to have been withdrawn.

(11) After all documents have been provided the registrar shall conduct a hearing of the matter.

(12) The registrar shall give at least 14 days' notice of the hearing to each party.

(13) A party may be heard at the hearing only if the party provides the registrar with a notice in Form 31 at least seven days before the date of the hearing.

(14) At the hearing no evidence other than the evidence provided by statutory declaration or affidavit may be introduced without the leave of the registrar.

(15) The registrar shall give each party a written notice of the decision together with written reasons within thirty days from the date of hearing.

(16) If there is more than one person opposing the application, the registrar may provide for the objections to be dealt with at the same hearing.

49. Procedure where registrar rejects application and where there is no opposition to application.

(1) Where the registrar proposes to reject the application, the registrar shall send a written notice to the applicant explaining the reasons for proposing to refuse to register the industrial design and inviting the applicant to do one of the following within sixty days after the date of the invitation—

- (a) submit written submissions; or
- (b) request a hearing.

(2) Where the registrar has sent a notice under subregulation (2), the registrar shall not make his or her decision as to whether or not to register the industrial design until—

- (a) if the applicant requests a hearing, after holding the hearing;
- (b) if the applicant submits observations, after considering the observations; or

(c) if the applicant does not request a hearing or submit observations, after the expiry of the sixty day period referred to in subregulation (1).

(3) The registrar shall notify the applicant in writing of his or her decision.

(4) Where the registrar decides to refuse to register the industrial design, the applicant may, within thirty days after the date of the notification of the decision, request that the registrar provide written reasons for his or her decision.

(5) A request under subregulation (4) shall be in Form 32.

(6) The registrar shall comply with a request under subregulation (5) within forty-five days after the request is made.

(7) The applicant may appeal the registrar's decision to court within ninety days after—

(a) the date of the notification of the decision; or

(b) if written reasons are requested, the date of the reasons.

50. Registration of industrial design.

(1) Before an industrial design is registered under section 74(9) of the Act, the applicant shall pay the registration fee.

(2) A certificate of registration issued under section 74(9) of the Act shall be in Form 33.

51. Duration and renewal of registration.

An application for a renewal under section 75(2) of the Act shall be in Form 34.

52. Restoration of lapsed right.

(1) An application for restoration of the protection granted to an industrial design under section 76(1) of the Act shall be in Form 35.

(2) The application shall be accompanied by a statutory declaration or affidavit supporting the application and by an application for renewal in Form 34.

(3) Before rejecting an application, the registrar shall send a written notice to the applicant explaining the reasons for proposing to reject the application and inviting the applicant to request a hearing within sixty days after the date of the invitation.

(4) Where the registrar sends a notice under subregulation (3), the registrar shall not make his decision as to whether to restore the design or reject the application until—

- (a) if the applicant requests a hearing, after holding the hearing; or
- (b) if the applicant does not request a hearing, after the expiry of the sixty day period referred to in subregulation (3).

(5) The registrar shall notify the applicant in writing of his decision and, if the registrar decides to reject the application, the notification shall include written reasons for his decision.

(6) Publication of a restored design under section 76(5) of the Act shall be in the Gazette.

53. Request to examine representations.

A request to examine representations or specimens under section 77(2) of the Act shall be in Form 36.

54. Publication relating to registration.

The publication under section 78 of the Act relating to a registration shall be in the Gazette.

55. Application of regulations under section 80(2) of the Act.

Regulations 34, 35 and 38 apply, with necessary modifications, with respect to the application, under sections 80(2), 48, 49 and 56 of the Act.

56. Form of certificate of technovation.

A technovation certificate shall be in Form 37.

57. Register of technovation certificates.

(1) The registrar shall record the following in the register of industrial property—

- (a) the registration number of the technovation certificate;
- (b) the name and address of the technovator;
- (c) the date of the request for registration;
- (d) the name and address of the enterprise that issued the technovation certificate;
- (e) the title of the technovation;
- (f) the technical field to which the technovation relates; and
- (g) any other information that the registrar considers appropriate.

(2) The registrar shall ensure that the information on technovation certificates in the register of industrial property is kept confidential.

58. Application for registration.

(1) A technovator may apply to the registrar to have his technovation certificate registered.

(2) An application under paragraph (1) shall be in Form 38.

(3) The application shall be accompanied by a certified copy of the technovation certificate.

59. Certificate of registration.

Upon registration of a technovation certificate the registrar shall issue a certificate of registration.

PART VIII—SURRENDER

60. Surrender.

(1) This Regulation applies with respect to the surrender of a patent, utility model or industrial design registration certificate under section 89 of the Act.

(2) Surrender shall be by way of a notice in Form 39.

(3) The publication of surrender under section 89(3) of the Act shall be in the Gazette.

PART IX—AGENTS

61. Representation by agent.

(1) A person may be represented by an agent in respect of a matter if an appointment of the agent in respect of the matter has been filed with the registrar.

(2) Unless the registrar otherwise directs, if a person is represented by an agent—

- (a) the agent may attend upon the registrar in place of the person; and
- (b) the agent may sign any document under this Act on behalf of the person.

PART X—MISCELLANEOUS PROVISIONS

62. Copies of documents.

A person who wishes to obtain a copy of a document kept by the registrar shall make a request in Form 27 for a certified copy or in Form 40 for an uncertified copy.

63. Copy of lost or destroyed certificate.

(1) The registrar may issue a copy of one of the following certificates if the certificate is lost or destroyed—

- (a) a certificate of grant of a patent;
- (b) a certificate of registration of a change in ownership;
- (c) a certificate of registration of a licence;
- (d) a utility model certificate;
- (e) a certificate of registration of an industrial design; or
- (f) a certificate of registration of a technovation certificate.

(2) A request for a copy of a lost or destroyed certificate shall be in Form 41.

(3) A request for a copy of a lost or destroyed certificate shall be accompanied by a statutory declaration or affidavit supporting the assertion that the certificate has been lost or destroyed.

64. Request for a search.

A request to have a search done for an industrial property right shall be in Form 42 and shall be accompanied by the prescribed fee.

65. Request to amend a name, etc. in a register.

A request to amend a name, address or other contact information in a register shall be in Form 43.

66. Caution or notice in a register.

A request to have a caution or notice included in or removed from a register shall be in Form 44.

67. Rules for giving notices, etc.

(1) A notice or other document that is to be given or sent to, or served on, a person may be given, sent or served —

- (a) by mailing or delivering the notice or document to the address of service provided by the person;
- (b) by giving the notice or document personally to the person or by mailing or delivering the notice or document to the person's residence or place of business or employment; or

- (c) by giving the notice or document personally to the person's agent or by mailing or delivering the notice or document to the agent's place of business.

(2) A notice or document that is mailed shall be deemed to have been given, sent or served on the day the notice or document would be delivered in the ordinary course of post.

68. Opportunity to be heard.

Before exercising a power or making a decision the registrar may give a person who would be adversely affected an opportunity to be heard.

69. Hearings, particular provisions.

The following apply with respect to a hearing before the registrar—

- (a) at the hearing the registrar may allow oral evidence and shall allow the cross examination of a person on his statutory declaration or affidavit;
- (b) the registrar may, on such terms as he or she may specify, allow a document to be amended or a procedural irregularity to be rectified;
- (c) the registrar may, on such terms as he or she may specify, dispense with or modify any requirement to do anything, including a requirement to provide a document;
- (d) the registrar may require a party to pay all or part of the costs of another party and determine how the costs are to be determined and how they are to be paid; and
- (e) the registrar may require a party to give security for costs that the party may be required to pay under paragraph (d).

70. Extensions of time.

(1) The registrar may extend the time for doing an act or taking a proceeding, other than a time expressly provided in the Act, on such conditions as he may specify.

(2) An application for extension of time shall be made to the registrar in Form 45 in Schedule.

71. Documents in English or translated.

(1) Documents provided to the registrar shall be in English.

(2) If a copy of a document that is not in English is required to be provided to the registrar the following apply—

- (a) an English translation of the document shall be provided along with the copy of the document;
- (b) the translation shall be certified to be an accurate translation;
- (c) if more than one copy of the document is required, one copy of the translation shall be provided for every copy of the document required; and
- (d) the copy of the document shall be deemed not to have been provided until the required translation and copies are provided.

72. Revocation of SI 216 – 1.

The Patents Regulations, SI 216 - 1 are repealed.