

**CANADA**  
**Industrial Design Regulations**  
as amended by SOR/2018-120  
Last amended on March 4, 2022  
Current to May 29, 2023

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SCHEDULE

## **Interpretation**

### **Definitions**

**1** The following definitions apply in these Regulations.

**Act** means the Industrial Design Act.

**application** means an application for the registration of a design.

**Commissioner** means the Commissioner of Patents.

**Common Regulations** means the Common Regulations Under the 1999 Act and the 1960 Act of the Hague Agreement, including any amendments made from time to time.

**date of registration** means, in relation to a design that is the subject of a Hague registration, the date of registration as determined under subsection 44(4).

**divisional application** means an application filed in accordance with subsection 20(2).

**Hague Agreement** means the Geneva (1999) Act of the Hague Agreement Concerning the International Registration of Industrial Designs, adopted at Geneva on July 2, 1999, including any amendments and revisions made from time to time to which Canada is a party.

**Hague application** means an application referred to in subsection 41(1).

**Hague registration** means a registration referred to in subsection 44(3).

**holder** means the person in whose name an international registration is recorded in the International Register.

**International Bureau** means the International Bureau of the World Intellectual Property Organization.

**International Designs Bulletin** means the periodical bulletin in which the International Bureau effects the publications provided for in the Hague Agreement or the Common Regulations.

**International Register** means the official collection of data concerning international registrations maintained by the International Bureau.

**international registration** means the international registration of a design effected according to the Hague Agreement.

**international registration designating Canada** means an international registration resulting from an international application that contains an indication under Article 5(1)(v) of the Hague Agreement that Canada is a designated Contracting Party.

**Office** means the Canadian Intellectual Property Office.

## **PART 1 Rules of General Application**

### **Communications**

#### **Written communications**

**2** Written communications that are intended for the Minister or Commissioner must be addressed to the "Industrial Design Office".

#### **Communications not submitted in writing**

**3** Neither the Minister nor the Commissioner is required to have regard to communications that are not submitted in writing.

#### **Submission of documents, information or fees**

**4** Unless submitted by electronic means under subsection 24.1(1) of the Act, any document, information or fee that is submitted to the Minister or Commissioner must be submitted by physical delivery to the Office or to an establishment that is designated by the Minister or Commissioner as being accepted for that purpose.

#### **Deemed receipt – Office**

**5** (1) Documents, information or fees that are submitted by physical delivery to the Office are deemed to have been received by the Minister or Commissioner

(a) if they are delivered when the Office is open to the public, on the day on which they are delivered to the Office; and

(b) if they are delivered when the Office is closed to the public, on the first day on which the Office is next open to the public.

#### **Deemed receipt – designated establishment**

(2) Documents, information or fees that are submitted by physical delivery to a designated establishment are deemed to have been received by the Minister or Commissioner

(a) if they are delivered when the establishment is open to the public,

(i) in the case where the Office is open to the public for all or part of the day on which they are delivered, on that day, and

(ii) in any other case, on the first day on which the Office is next open to the public; and

(b) if they are delivered when the establishment is closed to the public, on the first day on which the Office is next open to the public that falls on or after the day on which the establishment is next open to the public.

**Deemed receipt – electronic means**

(3) Documents, information or fees that are submitted by electronic means under subsection 24.1(1) of the Act are deemed to have been received on the day on which the Office receives them, according to the local time of the place where the Office is located.

**Electronic communications**

6 If the Minister or Commissioner makes a communication available by a particular electronic means to a person who has consented to receiving communications by that means, the communication is deemed to have been sent to that person.

**Postal address**

7 A person doing business before the Office must provide the Minister with their postal address.

**Written communications in respect of application**

8 (1) Written communications submitted to the Minister or Commissioner in respect of an application must contain the name of the applicant and, if known, the application number.

**Written communications in respect of registered design**

(2) Written communications submitted to the Minister or Commissioner in respect of a registered design must contain the name of the registered proprietor and the registration number.

**Manner of presentation of documents**

9 Documents submitted to the Minister or Commissioner must be  
(a) clear and legible and permit direct reproduction; and  
(b) in a form that is specified by the Minister or Commissioner as being accepted for that purpose.

**Material not in English or French**

10 The Minister and Commissioner must not have regard to any part of a document submitted in a language other than English or French, except for a representation of a design filed under paragraph 4(1)(b) of the Act or a document referred to in paragraph 27(1)(a).

**Acknowledgment of protest**

11 Communications received by the Minister before the registration of a design with the stated or apparent intention of protesting against the registration of that design must be acknowledged but,

subject to section 8.3 of the Act, information must not be given as to the action taken.

## **Representation Before the Office**

### **Power to appoint agent**

**12** (1) A person may appoint an agent to represent them in business before the Office.

### **Effect of act by agent**

(2) An act by or in relation to an agent in respect of business before the Office has the effect of an act by or in relation to the person who appointed the agent.

### **Business before Office**

(3) Subject to subsection (4), in business before the Office for the purpose of prosecuting an application,

(a) if an agent is appointed by a person, the person must be represented by that agent; or

(b) if a person has not appointed an agent, the person must represent themselves.

### **Exception**

(4) A person may represent themselves or be represented by any person authorized by them for the purpose of filing an application, paying a fee, giving notice under subsection (5) or making a request or providing evidence under section 13 of the Act.

### **Effective date**

(5) The appointment of an agent or the revocation of such an appointment is effective starting on the day on which the Minister receives notice of the appointment or revocation.

### **Postal address**

(6) In the case of an appointment, the notice must contain the postal address of the agent.

## **Register**

### **Prescribed information and statements**

**13** For the purpose of subsection 3(1) of the Act, the prescribed information and statements that must be contained in the Register of Industrial Designs are

(a) the date of registration;

(b) the filing date of the application;

(c) particulars of any request for priority submitted under section



- 8.1 of the Act;
- (d) the registration number;
  - (e) the name and address of the registered proprietor of the design on the date of registration;
  - (f) particulars of any change in the name or address of a registered proprietor recorded under section 35;
  - (g) particulars of any transfer that is registered under section 13 of the Act that relates to a registered design;
  - (h) the date prescribed under subsection 8.3(1) of the Act;
  - (i) the name of the finished article in respect of which the design is registered;
  - (j) the representation of the design contained in the application on the date of registration;
  - (k) if the application contains a statement under section 17 or 18, that statement;
  - (l) particulars of the payment of maintenance fees; and
  - (m) particulars of any correction made under section 3.1 of the Act.

## **Applications**

### **Requirements for representation of design**

- 14** The prescribed requirements for the purpose of paragraph 4(1)(b) of the Act are that a representation of the design must
- (a) be sufficient to disclose the design fully, taking into account the name of the finished article and any statement under section 17 or 18;
  - (b) be in the form of one or more of the following:
    - (i) photographs,
    - (ii) graphic reproductions, or
    - (iii) any other visual reproduction specified by the Minister or Commissioner as being accepted for that purpose;
  - (c) be of sufficient quality to permit the features of the design to be identified clearly and accurately; and
  - (d) include at least one photograph or reproduction that shows the design in isolation or the finished article in isolation.

### **Presentation of photographs or reproductions**

- 15** Photographs or reproductions contained in an application must be presented in the manner specified by the Minister or Commissioner as being accepted for that purpose.

**Name and postal address**

16 For the purpose of paragraph 4(1)(c) of the Act, an application must contain the applicant's name and postal address.

**Features of shape, configuration, pattern and ornament**

17 (1) Subject to subsections (2) to (4), an application is deemed to relate to all of the features of shape, configuration, pattern and ornament shown in the representation of the design that, in the finished article, appeal to and are judged solely by the eye.

**Exception – statement of limitation**

(2) If the application contains a statement clearly indicating that it relates only to some of the features of shape, configuration, pattern or ornament that, in the finished article, appeal to and are judged solely by the eye, or only to some or all of those features of a part of the finished article, then the application relates only to those features.

**Exception – features in dotted or broken lines**

(3) An application is deemed not to relate to a feature that is shown in the representation of the design in dotted or broken lines, unless the application contains a statement to the contrary.

**Exception – blurring or colouring**

(4) An application is deemed not to relate to a feature that is shown in the representation of the design by means of blurring or colouring if it is evident that the purpose of the blurring or colouring is to indicate that the application does not relate to that feature.

**Optional description**

18 An application may contain a brief statement describing the representation or the features of the design, but the statement must not describe a utilitarian function or a method or principle of manufacture or construction.

**Hague applications**

19 The contents of a Hague application on its filing date are deemed to comply with paragraphs 14(b) to (d) and sections 15, 16 and 18.

**One design per application**

20 (1) An application must be limited to one design applied to a single finished article or set or variants applied to a single finished article or set.

**Divisional applications**

(2) The applicant, in the case of a pending application (the "original application"), may file with the Minister a divisional application for the registration of a design applied to a finished article if that design applied to that finished article

(a) in respect of an original application that is not a divisional application, was disclosed in the original application on its filing date; and

(b) in respect of an original application that is a divisional application,

(i) was disclosed in the original application on the day on which the Minister received the original application, and

(ii) was disclosed, in the earliest original application in the series of applications from which the divisional application results, on the filing date of the earliest original application.

**Required statement**

(3) An application is a divisional application only if a statement to that effect that identifies the corresponding original application is contained in the application or in a separate document that is submitted to the Minister no later than three months after the day on which the Minister received the application.

**Separate application**

(4) A divisional application is a separate application, including with respect to the payment of any fees.

**Time period**

(5) A divisional application must not be filed later than two years after the filing date of the original application or, if the original application is itself a divisional application, two years after the filing date of the earliest original application in the series of applications from which the divisional application results.

**Exception**

(6) Subsection (5) does not apply to a divisional application for the registration of a design applied to a finished article if

(a) the Minister sends to the applicant, in the case of an original application, a report under subsection 22(2) setting out an objection to registration on the basis that the original application does not comply with subsection (1);

(b) on or after the date of the report under subsection 22(2), the applicant amends the original application so that it is no longer for the registration of that design applied to that finished article; and

(c) the divisional application is filed no later than six months after the day of the amendment.

### **Filing Date**

#### **Non-application to Hague application**

**21** (1) This section does not apply to a Hague application or to a divisional application resulting from a Hague application.

#### **Required documents, information and statements**

(2) The documents, information and statements prescribed for the purpose of subsection 4(3) of the Act are

(a) in respect of an application other than a divisional application,

(i) an explicit or implicit indication that the registration of a design is sought,

(ii) information allowing the identity of the applicant to be established,

(iii) information allowing the Minister to contact the applicant, and

(iv) a representation of the design; and

(b) in respect of a divisional application, those documents, information and statements received by the Minister under paragraph

(a) in respect of the earliest original application in the series of applications from which the divisional application results.

#### **Notice**

(3) In respect of an application other than a divisional application, the Minister must by notice inform an applicant whose application does not contain all the documents, information and statements referred to in paragraph (2) (a) of which documents, information and statements are outstanding and require that the applicant submit them no later than two months after the date of the notice.

#### **Application deemed never filed**

(4) If the Minister does not receive those documents, information and statements before the end of that period, the application is deemed never to have been filed. However, the applicant is not entitled to a refund of any fees paid in respect of the application.

### **Examination**

#### **Registrability**

**22** (1) The Minister must examine an application to determine if the design is registrable under section 7 of the Act.

**Objections**

(2) Subject to subsection (3), if the Minister has reasonable grounds to believe that the design is not registrable, the Minister must send to the applicant a report setting out the objections to registration and inviting the applicant to reply to the objections no later than three months after the date of the report.

**Objections to Hague application**

(3) In respect of a Hague application, the first report under subsection (2) must be sent by the Minister to the International Bureau in the form of a notification of refusal referred to in Article 12(2) of the Hague Agreement and the Minister is not required to send a copy of the report directly to the applicant.

**Extension of time period**

(4) The time period to reply referred to in subsection (2) is extended by six months if, before it ends, the applicant submits a request to the Minister.

**Limitation on extensions**

(5) Only one request under subsection (4) may be submitted in respect of a particular report.

**Deemed abandonment**

(6) If the applicant does not reply in good faith to a report within the time period set out in subsection (2), or within the time period that has been extended under subsection (4), the application is deemed to be abandoned.

**Reinstatement**

(7) An application that is deemed to be abandoned is reinstated if the applicant, within six months after the day on which the application is deemed to be abandoned,

(a) submits a request for reinstatement to the Minister;

(b) replies in good faith to the report; and

(c) pays the fee set out in item 9 of the schedule.

**Advanced examination**

**23** The Minister must advance the examination of an application out of its routine order on the request of the applicant and on payment of the fee set out in item 10 of the schedule.

**Delayed registration**

**24** In respect of an application other than a Hague application, on the request of the applicant and on payment of the fee set out in item 11 of the schedule, the Minister, if it is technically feasible,

must not register a design until the day that is 30 months after the filing date of the application or, if a request for priority is made in respect of the application, after the earliest filing date of a previously regularly filed application on which the request for priority is based.

## **Amendments**

### **Time limit to amend application**

**25** (1) Subject to subsections (2) and (3), an application may be amended before the design is registered.

### **Limitations on amendment**

(2) An application must not be amended

(a) to change the identity of the applicant, except, in respect of an application other than a Hague application, to record a transfer of the application under section 13 of the Act or to substitute an applicant under subsection 4(2) of the Act;

(b) to add a representation of a design;

(c) to change a representation of a design if the amendment would result in the application being for a design that differs substantially from the design that was the subject of the application on its filing date or, in the case of a divisional application, on the day on which the Minister received the divisional application;

(d) to add or amend a statement under section 17 or 18 if the addition or amendment would result in the application being for a design that differs substantially from the design that was the subject of the application on its filing date or, in the case of a divisional application, on the day on which the Minister received the divisional application; or

(e) to add an indication that it is a divisional application, if more than three months have passed since the day on which the Minister received the application.

### **Limitation – application made available to public**

(3) If the application contains the name of a finished article in respect of which the design is to be registered, that application must not be amended, on or after the date prescribed under subsection 8.3(1) of the Act for making an application available to the public, to change that name to the name of a substantially different finished article.

## **Priority**

### **Non-application to Hague application**

**26** (1) This section does not apply to a Hague application or to a divisional application resulting from a Hague application.

### **Requirements**

(2) For the purpose of subsection 8.1(2) of the Act, a request for priority must

- (a) be made in the application or in a separate document;
- (b) indicate the filing date and the name of the country or office of filing of each previously regularly filed application on which that request is based; and
- (c) be made no later than the earlier of the day that is six months after the earliest filing date of those previously regularly filed applications and the date of registration of the design that is the subject of the pending application.

### **Corrections**

(3) Subject to subsections (4) and (5), an error in the filing date, the name of the country or office of filing or the number of a previously regularly filed application submitted under subsection 8.1(2) of the Act may be corrected by the applicant before the design is registered.

### **Exception**

(4) After the date prescribed under subsection 8.3(1) of the Act for making the pending application available to the public, an error in the name of the country or office of filing submitted under subsection 8.1(2) of the Act may be corrected only if, on the day the application is made available to the public, it would have been obvious from the documents in the Minister's possession relating to the application that the name of another particular country or office of filing was intended by the applicant.

### **Exception**

(5) An error in the filing date submitted under subsection 8.1(2) of the Act must not be corrected if more than six months have passed since the filing date of the pending application.

### **Copy of previously filed application**

**27** (1) If an applicant requests priority in respect of a pending application on the basis of one or more previously regularly filed applications – other than an application previously regularly filed in or for Canada – the Minister may by notice request that the

applicant of the pending application, no later than three months after the date of the notice,

(a) at the option of the applicant, either

(i) submit to the Minister a copy of the previously regularly filed application certified as correct by the office in which it was filed and a certificate from that office showing its filing date, or

(ii) make a copy of the previously regularly filed application available to the Minister from a digital library that is specified by the Minister or Commissioner as being accepted for that purpose and inform the Minister that it is so available; and

(b) if the previously regularly filed application is in a language other than English or French, submit to the Minister an English or French translation of the whole or a specified part of the previously regularly filed application.

**Translation not accurate**

(2) If the Minister has reasonable grounds to believe that a translation submitted under subsection (1) is not accurate, the Minister may by notice request that the applicant, in the case of the pending application, submit to the Minister, no later than three months after the date of the notice,

(a) a statement by the translator to the effect that, to the best of their knowledge, the translation is accurate; or

(b) a new translation together with a statement by its translator to the effect that, to the best of their knowledge, the new translation is accurate.

**Notice included in report**

(3) If the Minister issues a report under subsection 22(2), a notice under subsection (1) or (2) may be given by including the request in that report.

**Extension**

(4) The time period for complying with a request under subsection (1) or (2) is extended by six months if, within that time period, the applicant submits to the Minister a request for an extension.

**Limitation on extensions**

(5) Only one request under subsection (4) may be submitted in respect of a particular request under subsection (1) or (2).

**Non-compliance with request**

(6) If the applicant of a pending application does not comply with a request under subsection (1) or (2) in respect of a particular previously regularly filed application before the end of the time period set out in those subsections or of the time period that has



been extended under subsection (4), the request for priority is deemed to have been withdrawn with respect to that previously regularly filed application at the end of that time period.

#### **Withdrawal of request for priority**

**28** (1) For the purpose of subsection 8.1(4) of the Act, a request for priority may be withdrawn by submitting a request to the Minister before the design is registered.

#### **Effective date**

(2) The effective date of the withdrawal of a request for priority is the day on which the request for withdrawal is received by the Minister.

#### **Deemed action – divisional application**

**29** If, on or before the day on which a divisional application is received by the Minister, one of the following actions has been taken in respect of the original application, the same action is deemed to have been taken on the same day in respect of the divisional application:

- (a) a request for priority has been made and has not been withdrawn;
- (b) information required under subsection 8.1(2) of the Act has been submitted to the Minister in respect of a request for priority;
- (c) a copy or a translation of a previously regularly filed application, or a certificate showing its filing date, has been submitted to the Minister; or
- (d) a copy of a previously regularly filed application has been made available to the Minister from a digital library that is specified by the Minister or Commissioner as being accepted for that purpose.

#### **Priority effect of international registration**

**30** For the purpose of sections 8 and 8.1 of the Act and of sections 26 to 29 and 45 of these Regulations, an application for international registration is, from its filing date as determined under Article 9 of the Hague Agreement, equivalent to a regular filing of an application in or for a country of the Union.

#### **Novel Design**

#### **Non-application of paragraph 8.2(1)(c) of Act**

**31** In respect of a particular application, paragraph 8.2(1)(c) of

the Act does not apply in respect of a design that has been disclosed in another application that was filed in Canada by a person referred to in subparagraph 8.2(1)(a)(i) or (ii) of the Act if the filing date of that particular application is no later than 12 months after the filing date of the other application.

## **Applications and Documents Made Available to Public**

### **Prescribed date**

**32** (1) Subject to subsection (2), for the purpose of subsection 8.3(1) of the Act, the prescribed date is

(a) in respect of an application, other than a Hague application or a divisional application resulting from a Hague application, and in respect of all documents in the Minister's possession relating to the application and the design's registration, the earlier of

(i) the date of registration of the design, and

(ii) the day that is 30 months after the filing date of that application or of the application that resulted in that registration or, if a request for priority is made in respect of that application or of the application that resulted in that registration, the earliest filing date of a previously regularly filed application on which the request for priority is based; or

(b) in respect of a Hague application or a divisional application resulting from a Hague application, and in respect of all documents in the Minister's possession relating to the application and the design's registration, the date of publication of the international registration by the International Bureau.

### **Exception**

(2) If a document relates to more than one application or registration, for the purpose of subsection 8.3(1) of the Act, the prescribed date for that document is the earliest date prescribed under subsection 8.3(1) of the Act for an application or registration referred to in that document.

### **Withdrawal of request for priority**

(3) For the purpose of subsection (1), a request for priority with respect to a particular previously regularly filed application is deemed never to have been made if the request is withdrawn more than two months before the day referred to in subparagraph (1)(a)(ii), without taking the withdrawal into account.

### **Prescribed date regarding withdrawn application**

(4) For the purpose of subsection 8.3(5) of the Act, the prescribed

date is the earlier of the date of registration and the day that is two months before the day referred to in subparagraph (1)(a)(ii).

### **Maintenance of Exclusive Right**

#### **Prescribed period**

**33** (1) For the purpose of subsection 10(2) of the Act, the prescribed period begins five years after the date of registration of the design and ends on the later of the end of 10 years after the date of registration and the end of 15 years after the filing date of the application.

#### **Deadline for payment**

(2) Subject to subsection (3), the fee for the maintenance of the exclusive right accorded by the registration of a design set out in item 2 of the schedule must be paid no later than five years after the date of registration of the design.

#### **Exception**

(3) The fee for the maintenance of the exclusive right accorded by the registration of a design set out in item 2 of the schedule may be paid within six months after the end of that five-year period if the proprietor makes a request to the Commissioner within those six months and pays both the maintenance fee and the late fee set out in item 3 of the schedule.

### **Transfers and Changes of Name or Address**

#### **Request to record or register transfer**

**34** A request to record or register a transfer under subsection 13(2) or (3) of the Act must include the name and postal address of the transferee and the fee set out in item 4 of the schedule.

#### **Change of name or address**

**35** If a registered proprietor changes their name or address, the Minister must register the change on the request of the registered proprietor.

### **Time Period Extended**

#### **Prescribed days**

**36** The following days are prescribed for the purpose of subsection 21(1) of the Act:

- (a) Saturday;
- (b) Sunday;
- (c) January 1 or, if January 1 falls on a Saturday or a Sunday, the following Monday;
- (d) Good Friday;
- (e) Easter Monday;
- (f) the Monday preceding May 25;
- (g) June 24 or, if June 24 falls on a Saturday or a Sunday, the following Monday;
- (h) July 1 or, if July 1 falls on a Saturday or a Sunday, the following Monday;
- (i) the first Monday in August;
- (j) the first Monday in September;
- (j.1) September 30 or, if September 30 falls on a Saturday or a Sunday, the following Monday;
- (k) the second Monday in October;
- (l) November 11 or, if November 11 falls on a Saturday or a Sunday, the following Monday;
- (m) December 25 and 26 or, if December 25 falls on
  - (i) a Friday, that Friday and the following Monday, or
  - (ii) a Saturday or a Sunday, the following Monday and Tuesday; and
- (n) any day on which the Office is closed to the public for all or part of that day during ordinary business hours.

## **Fees**

### **Fees for services**

**37** The fee prescribed for a purpose described in column 1 of an item of the schedule is the fee set out in column 2 of that item.

### **Refund excess fees**

**38** (1) Subject to subsection (2), the Minister or Commissioner must refund any amount paid in excess of the fee prescribed.

#### **Exception**

(2) A refund must not be made unless a request for the refund is received no later than three years after the day on which the fee was paid.

### **Waiver of fee**

**39** The Minister is authorized to waive the payment of a fee if the Minister is satisfied that the circumstances justify it.

## **PART 2 Implementation of the Hague Agreement**

### **Register**

#### **Non-application of section 3 of Act**

**40** (1) Section 3 of the Act does not apply to a Hague registration.

#### **Evidence**

(2) The International Register and items in the file of an international registration are evidence of their contents, and a copy of a recording in the International Register or of an item in the file of an international registration is evidence of the particulars of the recording or item if the copy is certified by the International Bureau.

#### **Admissibility**

(3) A copy appearing to have been certified by the International Bureau is admissible in evidence in any court.

### **Hague Application**

#### **Application**

**41** (1) An application is deemed to have been filed under subsection 4(1) of the Act in respect of each design that is the subject of an international registration designating Canada.

#### **Contents**

(2) On the filing date of a Hague application,

(a) for the purpose of paragraph 4(1)(a) of the Act, the name of the product that is indicated in the corresponding international registration as the product that constitutes the design or in relation to which the design is to be used is deemed to be the name of the finished article in respect of which the design is to be registered; and

(b) the Hague application is deemed to contain the same representation of the design and the same information and statements in respect of the design as in the corresponding international registration.

#### **Fees not applicable**

(3) The requirement in subsection 4(1) of the Act for the payment of prescribed fees does not apply in respect of a Hague application.

#### **Applicant**

(4) The holder of the corresponding international registration is deemed to be the applicant in respect of a Hague application.

**Non-application of subsection 4(2) of Act**

(5) Subsection 4(2) of the Act does not apply to a Hague application or to a divisional application resulting from a Hague application.

**Deemed withdrawal of Hague application**

(6) A Hague application is deemed to be withdrawn if

(a) the corresponding international registration is cancelled;

(b) the International Bureau records in the International Register the renunciation of the corresponding international registration in respect of Canada; or

(c) the International Bureau records in the International Register, in respect of Canada, a limitation of the corresponding international registration to one or more designs other than the design that is the subject of the Hague application.

**Effective date**

(7) A withdrawal of a Hague application under subsection (6) is deemed to take effect on the date of the cancellation or the date of the recording of the renunciation or limitation in the International Register.

**Filing Date**

**Non-application of subsection 4(3) of Act**

**42** (1) Subsection 4(3) of the Act does not apply to a Hague application or to a divisional application resulting from a Hague application.

**Filing date**

(2) The filing date of a Hague application or a divisional application resulting from a Hague application is the date of the corresponding international registration as determined under Article 10(2) of the Hague Agreement.

**Refusal**

**Notification of refusal**

**43** The Minister must not refuse a Hague application under subsection 6(1) of the Act without first sending the International Bureau a notification of refusal referred to in Article 12(2) of the Hague Agreement within 12 months after the date of publication of the international registration by the International Bureau.

## **Hague Registration**

### **Non-application of subsection 6(2) of Act**

**44** (1) Subsection 6(2) of the Act does not apply to a Hague application.

### **Statement of grant of protection**

(2) If the Minister is not satisfied that a design that is the subject of a Hague application is not registrable, the Minister must send a statement of grant of protection in respect of the design to the International Bureau.

### **Registration of design**

(3) A design that is the subject of a Hague application is deemed to have been registered by the Minister under subsection 6(2) of the Act if

(a) the Minister sends a statement of grant of protection in respect of the design to the International Bureau; or

(b) the Minister does not, on or before the day that is 12 months after the date of publication of the international registration by the International Bureau, send to the International Bureau a notification of refusal referred to in Article 12(2) of the Hague Agreement.

### **Date of registration**

(4) The date of registration of a design that is the subject of a Hague registration is the earlier of

(a) if the Minister sends a statement of grant of protection in respect of the design to the International Bureau, the date of the statement; and

(b) if the Minister does not, on or before the day that is 12 months after the date of publication of the international registration by the International Bureau, send to the International Bureau a notification of refusal referred to in Article 12(2) of the Hague Agreement, the first day after the end of that period.

### **Registered proprietor**

(5) The holder of an international registration is deemed to be the registered proprietor of the corresponding Hague registration.

### **Deemed cancellation of Hague registration**

(6) A Hague registration is deemed to be cancelled if the International Bureau records in the International Register

(a) a renunciation of the corresponding international registration in respect of Canada; or

(b) a limitation of the corresponding international registration,

in respect of Canada, to one or more designs other than the design that is the subject of the Hague registration.

**Effective date**

(7) A cancellation of a Hague registration under subsection (6) is deemed to take effect on the date of the recording of the renunciation or limitation in the International Register.

**Priority**

**Non-application of subsections 8.1(1) to (3) of Act**

**45** (1) Subsections 8.1(1) to (3) of the Act do not apply to a Hague application or to a divisional application resulting from a Hague application.

**Request for priority**

(2) For the purpose of paragraph 8(1)(c) of the Act, the applicant must not submit a request for priority to the Minister in respect of a Hague application or a divisional application resulting from a Hague application.

**Deemed request for priority**

(3) For the purpose of paragraph 8(1)(c) of the Act, the applicant is deemed to have made a request for priority in respect of a Hague application or a divisional application resulting from a Hague application on the basis of a previously regularly filed application if the corresponding international registration contains

(a) a declaration claiming the priority of the previously regularly filed application in respect of the design that is the subject of the Hague application; and

(b) an indication of the filing date and the name of the country or office of filing of the previously regularly filed application.

**Applications and Documents Made Available to Public**

**Article 10(5) of Hague Agreement**

**46** (1) Despite subsection 8.3(1) of the Act, the Minister must not make available to the public a copy of an international registration or any statement, document or specimen sent by the International Bureau to the Minister under Article 10(5) of the Hague Agreement except in accordance with that Article.

**Non-application of subsections 8.3(3) to (6) of Act**

(2) Subsections 8.3(3) to (6) of the Act do not apply to a Hague application or to a divisional application resulting from a Hague



application.

### **Duration of Exclusive Right**

#### **Non-application of section 10 of Act**

**47** (1) Section 10 of the Act does not apply to a Hague registration.

#### **Term**

(2) The term limited for the duration of an exclusive right in relation to a design that is the subject of a Hague registration

(a) begins on the date of registration of the design; and

(b) ends on the earlier of

(i) the later of the end of 10 years after the date of registration of the design and the end of 15 years after the filing date of the corresponding Hague application, and

(ii) the date of the expiry, in respect of Canada, of the international registration in respect of that design.

### **Transfers**

#### **Non-application of subsections 13(2) to (6) of Act**

**48** Subsections 13(2) to (6) of the Act do not apply to a Hague application or to a Hague registration.

### **Attestation**

**49** The Minister must, on request, provide to the transferee of an international registration an attestation that the transferee appears to be the successor in title of the holder if

(a) the holder is a national of Canada or has a domicile, a habitual residence or a real and effective industrial or commercial establishment in Canada; and

(b) the transferee submits to the Minister

(i) evidence satisfactory to the Minister that the transferee appears to be the successor in title of the holder, and

(ii) a statement to the effect that the transferee made efforts to obtain the signature of the holder or their representative on a request to record the change in ownership and that their efforts were not successful.

## **Appeal or Invalidation**

### **Non-application of sections 22 to 24 of Act**

**50** (1) Sections 22 to 24 of the Act do not apply to a Hague registration.

### **Appeal to Federal Court**

(2) An appeal lies to the Federal Court from a refusal by the Minister under subsection 6(1) of the Act of a Hague application no later than two months after the day on which notice of the refusal was sent by the Minister.

### **Refusal reversed**

(3) If, in the final judgment given in the appeal, the refusal by the Minister is reversed, the Minister must send a statement of grant of protection in respect of the design to the International Bureau.

### **Jurisdiction**

(4) The Federal Court has exclusive jurisdiction, on application of the Minister or any interested person, to make an order invalidating a Hague registration on the ground that the design was not registrable on the date of registration.

### **Notification to International Bureau**

(5) If, in the final judgment given in a proceeding under subsection (4), a Hague registration is invalidated, the Minister must notify the International Bureau of the invalidation.

### **Certified copy**

(6) An officer of the Registry of the Federal Court must send to the Minister a certified copy of every judgment or order of the Supreme Court of Canada, the Federal Court of Appeal or the Federal Court relating to a Hague registration.

## **Corrections**

### **Notification of refusal of correction**

**51** (1) If the International Bureau modifies the International Register to correct an error concerning an international registration designating Canada and the Minister considers that the effects of the correction cannot be recognized, the Minister must so declare in a notification of refusal of the effects of the correction sent to the International Bureau no later than 12 months after the day on which the correction is published by the International Bureau in the International Designs Bulletin.

**Opportunity to reply**

(2) The holder may reply to the notification within the time specified in the notification.

**Notification of withdrawal of refusal**

(3) If, after considering a reply provided under subsection (2), the Minister considers that the effects of the correction can be recognized, the Minister must send to the International Bureau a notification of withdrawal of refusal of the effects of the correction.

**Amendment – Hague application or Hague registration**

(4) If the International Bureau modifies the International Register to correct an error concerning an international registration designating Canada and one of the circumstances set out in subsection (7) applies, the correction is effective in Canada and any corresponding Hague application or Hague registration is deemed to be amended accordingly.

**Effective date**

(5) For the purpose of paragraphs 25(2)(c) and (d), a correction under subsection (4) is deemed to take effect on the filing date of the corresponding Hague application.

**No effect**

(6) If the International Bureau modifies the International Register to correct an error concerning an international registration designating Canada that corresponds to a Hague application or a Hague registration and neither of the circumstances set out in subsection (7) applies, the correction has no effect in Canada.

**Circumstances**

(7) For the purpose of subsections (4) and (6), the circumstances are as follows:

(a) the Minister does not, on or before the day that is 12 months after the day on which a correction of an error concerning an international registration designating Canada is published by the International Bureau in the International Designs Bulletin, send a notification of refusal under subsection (1) to the International Bureau; and

(b) the Minister sends a notification of withdrawal of refusal of the effects of the correction under subsection (3) to the International Bureau.

## **Extension of Time**

### **Non-application of section 21 of Act**

**52** Rule 4(4) of the Common Regulations applies, and section 21 of the Act does not apply, to the time periods referred to in sections 43, 44 and 51 of these Regulations.

## **Transitional Provisions**

### **Definition of former Regulations**

**53** (1) In this section, former Regulations means the Industrial Design Regulations as they read immediately before the day on which these Regulations come into force.

### **Filing date**

(2) In respect of an application whose filing date, determined under the Act as it read immediately before the day on which these Regulations come into force, is before the day on which these Regulations come into force, or in respect of a design registered on the basis of such an application,

(a) the requirements of subsections 8(2) and 9(1), paragraphs 9(2)(a) to (d) and sections 9.1 to 13, 16 and 20 of the former Regulations are substituted for the requirements of sections 10, 11, 14 to 21 and 24 to 32 of these Regulations;

(b) for the purpose of subsection 10(2) of the Act as it read immediately before the day on which these Regulations come into force, the prescribed period begins five years after the date of registration of the design and ends 10 years after the date of registration of the design; and

(c) subsection 22(1) of these Regulations does not apply to that application, and the Minister must examine it to determine if the design meets the requirements for registration under the Act as it read immediately before the day on which these Regulations come into force.

## **Repeal**

**54** The Industrial Design Regulations<sup>1</sup>(SOR/99-460) are repealed.

## **Coming into Force S.C. 2014, c. 39**

**55** These Regulations come into force on the day on which section 102 of the Economic Action Plan 2014 Act, No. 2, comes into force.

[Note: Regulations in force November 5, 2018, see SI/2018-45.]

**SCHEDULE**

(Paragraph 22(7)(c), sections 23 and 24, subsections 33(2) and (3) and sections 34 and 37)

**Tariff of Fees**

Column 1		Column 2
Item	Description	Fees (\$)
1.	Examination of an application	
	(a) basic fee	400.00
	(b) additional fee, for each page of drawings in Excess of 10 pages	10.00
2.	Maintenance of the exclusive right accorded by the registration of a design under subsection 33(2) or (3)	350.00
3.	Late fee for the maintenance of the exclusive right accorded by the registration of a design under subsection 33(3)	50.00
4.	Recording or registering of a transfer under section 13 of the Act, for each application or registration to which the transfer relates	100.00
5.	Provision of a paper copy of a document, for each page,	
	(a) if the user of the service makes the copy using Office equipment	0.50
	(b) if the Office makes the copy	1.00
6.	Provision of an electronic copy of a document	
	(a) for each request	10.00
	(b) for each application or registration to which the request relates	10.00
	(c) if the copy is requested on a physical medium, for each physical medium provided other than the first	10.00
7.	Provision of a certified paper copy of a document, other than a certified copy made under Rule 318 or 350 of the Federal Courts Rules,	
	(a) for each certification	35.00
	(b) for each page	1.00
8.	Provision of a certified electronic copy of a	

	document, other than a certified copy made under Rule 318 or 350 of the Federal Courts Rules,	
	(a) for each certification	35.00
	(b) for each application or registration to which the request relates	10.00
9.	Reinstatement of an abandoned application(旧 10)	200.00
10.	Processing of a request to advance the examination of an application	500.00
11.	Delaying of registration	100.00