

HONG KONG
Registered Designs Rules
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PRELIMINARY

Section 1 (omitted as spent)

Section 2 Interpretation

(1) In these Rules--

"digital signature" has the meaning assigned by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (L.N. 38 of 2004)

"electronic record" has the meaning assigned by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (L.N. 38 of 2004)

"electronic signature" has the meaning assigned by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (L.N. 38 of 2004)

"information system" has the meaning assigned by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (L.N. 38 of 2004)

"Locarno Agreement" means the Locarno Agreement Establishing an International Classification for Industrial Designs, signed at Locarno on October 8, 1968, as amended from time to time;

"send" includes give, and cognate expressions are to be construed accordingly; (L.N. 38 of 2004)

"statement of novelty" means a statement in accordance with section 8;

"textile article" means textile and plastics piece goods, handkerchiefs, shawls and such other classes of articles of a similar character as the Registrar may from time to time decide, for which the protection under the Ordinance is limited to features of pattern and ornament only.

(2) Any reference in these Rules--

(a) to a specified form shall be construed as a reference to the relevant form specified by the Registrar by notice published in the official journal; (2 of 2001 s. 27)

(b) to an applicable fee shall be construed as a reference to the fee applicable in accordance with section 74 and the Schedule; or

(c) to the filing of a document or other thing shall, unless the context otherwise requires, be construed as a reference to the filing of the document or thing with the Registrar in accordance with sections 60, 60A, 60B and 60C. (L.N. 38 of 2004)

Section 2A Specified forms

A requirement to use a specified form is satisfied by the use of either--

(a) a replica of the specified form; or

(b) a form acceptable to the Registrar,

that contains the information required by the specified form and complies

with any directions of the Registrar as to the use of the specified form or replicas of it.

(L.N. 38 of 2004)

REGISTRABLE DESIGNS (SECTIONS 5, 9 AND 10 OF ORDINANCE)

Section 3 Prescribed case under section 5(3) of Ordinance

The Registrar may exercise his powers under section 5(3) of the Ordinance in any case where a request for amendment of an application for registration of a design has been granted under section 21 of the Ordinance and in the opinion of the Registrar the amendment has the effect of significantly altering the design for which the application was initially filed.

Section 4 Designs excluded from registration

There shall be excluded from registration under the Ordinance designs intended to be applied to any of the following articles, namely--

- (a) works of sculpture (other than casts or models used or intended to be used as models or patterns to be multiplied by any industrial process);
- (b) wall plaques, medals and medallions;
- (c) printed matter primarily of a literary or artistic character, including book jackets, calendars, certificates, coupons, dressmaking patterns, greeting cards, labels, leaflets, maps, plans, playing cards, postcards, stamps, trade advertisements, trade forms and cards, transfers and similar articles.

Section 5 Industrial application of designs

A design is to be regarded for the purposes of section 10 of the Ordinance as "applied industrially" if it has been applied--

- (a) to more than 50 articles which do not all together constitute a single set of articles; or
- (b) to articles manufactured in lengths or pieces, not being handmade articles.

APPLICATIONS FOR REGISTRATION (SECTIONS 12, 13, 18, 20 AND 21 OF ORDINANCE)

Filing of applications

Section 6 Form and contents of applications

(1) An application for registration of a design shall be made on the specified form.

(2) The application shall include the information and documents referred to in section 12(2)(a) to (e) of the Ordinance, namely--

- (a) a request for registration of the design;
- (b) a representation of the design suitable for reproduction, in accordance with section 7; (L.N. 38 of 2004)
- (c) the name and address of the applicant;
- (d) where the applicant is not the designer, a statement explaining the applicant's rights in relation to the design; and
- (e) an address in Hong Kong for service of documents.

(3) In addition, the application shall include--

- (a) a statement identifying the article or articles to which the design is intended to be applied, in both official languages;
- (b) a statement identifying the classification of the article or articles to which the design is intended to be applied, according to the class and subclass of the classifications established by the Locarno Agreement;
- (c) a statement of novelty, in accordance with section 8; (L.N. 38 of 2004)
- (d) any statements or evidence required by sections 9, 10, 11, 12 and 13, whichever are applicable;
- (e) a transliteration of the name of the applicant, if the name is not in Roman letters or in Chinese characters; (L.N. 38 of 2004)
- (f) the signature of the applicant; and
- (g) any other information required by the specified application form.

Section 7 Representations

(1) The representation of the design included with the application may be either a drawing or a photograph and shall be of a size of not more than 210 mm by 297 mm. (L.N. 38 of 2004)

(2) Where the application is made for the registration of a design intended to be applied to a set of articles, the representation shall show the design as applied to each different article included in the set.

(3) The Registrar may at any time require the applicant to file additional copies of the representation. (L.N. 38 of 2004)

Section 8 Statement of novelty

(1) A statement describing the features of the design which the applicant considers to be new shall be included in the application filed under section 6 in both official languages. (L.N. 38 of 2004)

(2) - (3) (Repealed L.N. 38 of 2004)

(4) This section does not apply in the case of an application for registration of the pattern or ornament of a design which is intended to be applied to a textile article, to wallpaper or similar wall covering or to lace or to sets of textile articles or lace.

Section 9 Statement relating to confidential disclosure

(1) Where an applicant wishes to claim that section 9 of the Ordinance applies in relation to the application, the application shall include a statement to that effect in accordance with this section.

(2) Except in the case referred to in subsection (3), the statement shall--

(a) identify the provisions of section 9 of the Ordinance on which the applicant relies; and

(b) describe the circumstances of the disclosure of the design including any relevant dates.

(3) Where the disclosure of the design relates to an official international exhibition, the statement shall specify--

(a) the name of the exhibition and the place where it was held;

(b) the opening date of the exhibition; and

(c) if the first disclosure of the design did not take place on the opening date of the exhibition, the date of such first disclosure.

(4) The applicant may file additional information or documents in support of the claim.

Section 10 Statement in respect of previously registered designs, etc.

(1) Where an applicant wishes to claim that section 11 of the Ordinance applies in relation to the application, the application shall include a statement to that effect in accordance with this section.

(2) The statement shall specify the number or numbers of the previous registration or registrations and the number or numbers of the previous application or applications for registration.

(3) The applicant may file additional information or documents in support of the claim.

Section 11 Statement of priority, etc.

(1) Where an applicant wishes to claim the priority of a previous application under section 16 of the Ordinance, the application shall include the statement of priority and copy of the previous application required by that section.

(2) In addition to the statement of priority and copy of the previous application, there shall be filed with the application, or within 3 months of the filing date of the application, a copy of a certificate issued by a competent authority of the relevant Paris Convention country or WTO member verifying to the Registrar's satisfaction-- (L.N. 38 of 2004)

- (a) the country, territory or area of filing of the previous application;
- (b) the filing date of the previous application and its filing number;
- (c) the representation of the design and the articles covered by the previous application.

Section 12 Evidence relating to armorial bearings, etc.

Where a reproduction of the armorial bearings, insignia, orders of chivalry, decorations, emblems or flags of any country, city, town, place, society, body corporate, institution or person appears on a design, the application shall include evidence satisfactory to the Registrar that such official or other person as is entitled to give consent to the registration of the design and to the use of the reproduction has given such consent.

Section 13 Evidence relating to names or portraits

(1) Where the name or portrait of a living person appears on a design, the application shall include evidence satisfactory to the Registrar that the person has consented to the registration of the design and to the use of his name or portrait.

(2) Where the name or portrait of a recently deceased person appears on a design, the application shall include evidence satisfactory to the Registrar that the personal representative of the deceased person has consented to the registration of the design and to the use of the deceased's name or portrait.

Section 14 Samples

(1) Subject to this section, an application for registration of a 2-dimensional design intended to be applied to a textile article may be accompanied by a sample of the article to which the design reproduced in the representation is applied.

(2) The sample must be contained in a single envelope or packet.

(3) The dimensions of the sample must not exceed 30 cm and the weight of any such envelope or packet and its packing must not exceed 4 kg.

(4) Samples of perishable articles or articles which are dangerous to store shall not be submitted.

(5) Except where the Registrar requires, samples of other articles shall not be submitted.

Section 15 Specimens

Except where the Registrar requires, no specimens shall be filed.

Multiple applications**Section 16 Multiple applications**

Two or more designs may be the subject of the same application for registration if the designs relate to the same class of articles as classified in accordance with the classifications established by the Locarno Agreement or to the same set of articles.

Withdrawal and reinstatement of applications**Section 17 Withdrawal of applications**

A notice of withdrawal under section 18 of the Ordinance shall be made in writing and shall state the application number of the application being withdrawn.

(L.N. 38 of 2004)

Section 18 Reinstatement of applications

A notice requesting reinstatement of an application for registration of a design under section 20 of the Ordinance shall be made on the specified form.

Amendment of applications

Section 19 Amendment of applications

A request for amendment of an application for registration of a design under section 21 of the Ordinance shall be made on the specified form.

Rights in applications

Section 20 Transactions affecting rights in applications

(1) Subject to section 64(3) of the Ordinance, notice may be given to the Registrar on the specified form of particulars concerning any transaction, instrument or event affecting an application for registration of a design and to which sections 23 and 34 of the Ordinance apply.

(2) Section 33(2) to (4) applies, with necessary modification, in relation to a notice filed under subsection (1) as it applies in relation to an application filed under section 33.

(3) Subject to section 64(3) of the Ordinance, notice may be given to the Registrar on the specified form of particulars concerning any transaction, instrument or event by virtue of which the ownership of, or any interest in, an application for registration of a design is purportedly affected.

(4) A notice under subsection (1) or (3) shall contain full particulars of the transaction, instrument or event.

EXAMINATION AND REGISTRATION (SECTIONS 24, 25 AND 26 OF ORDINANCE)

Section 21 Formal requirements

The following are specified as the "formal requirements" for the purposes of the Ordinance, namely--

- (a) all of the requirements of section 12 of the Ordinance; and
- (b) all of the requirements of sections 3 to 13 of these Rules.

Section 22 Deficiencies

(1) Where the Registrar determines that there are deficiencies as regards the formal requirements, he shall give written notice of the deficiencies to the applicant.

(2) Deficiencies as regards the formal requirements may be corrected within 3 months after the date of the notice.

(3) Subject to section 26 of the Ordinance, if the deficiencies are corrected within the period referred to in subsection (2), the Registrar shall proceed to register the design in accordance with section 25.

Section 23 Refusal of applications

(1) Where the Registrar refuses an application for registration of a design under section 26 of the Ordinance, he shall give written notice of the refusal to the applicant.

(2) The notice shall state the reasons for the Registrar's decision.

(3) For the purpose of any appeal against the Registrar's decision under section 58 of the Ordinance, the date of the decision shall be the date when notice of the decision is sent to the applicant under this section.

Section 24 Classification of articles

For the purposes of the registration of designs, articles shall be classified in accordance with the classifications specified in the Locarno Agreement.

Section 25 Registration

(1) The Registrar shall register a design under section 25 of the Ordinance by entering the following particulars in the Register--

- (a) the date of registration;
- (b) the date of entry in the Register;

- (c) if applicable, the priority date and the name of the relevant Paris Convention country or WTO member;
- (d) the registration number;
- (e) the name and address of the owner of the design;
- (f) any address for service;
- (g) the number of the class and subclass of the Locarno classification of the article or articles in respect of which the design is registered.

(2) In addition, the Registrar shall enter the following in the Register--

- (a) a reproduction of the representation of the design included with the application;
- (b) any statement of novelty relating to the design;
- (c) particulars as to the article or articles in respect of which the design is registered;
- (d) particulars concerning any relevant transaction, instrument or event to which section 34 of the Ordinance applies;
- (e) if applicable, a statement that the design has been registered in accordance with section 11 of the Ordinance in association with a design which has been previously registered.

(3) The Registrar may at any time enter in the Register such other particulars in relation to the design as he may think fit.

Section 26 Certificate of registration

(1) On registration of a design the Registrar shall issue a certificate of registration to the registered owner.

(2) In the case of a design which is registered in accordance with section 11 of the Ordinance in association with a design which has been previously registered, the certificate of registration shall contain a statement that the design has been registered in association with that previously registered design.

Section 27 Advertisement of registration

(1) The advertisement of the registration of a design published in the official journal under section 25(d) of the Ordinance shall contain-- (2 of 2001 s. 27)

- (a) the date of registration;
- (b) if applicable, the priority date and the name of the relevant Paris Convention country or WTO member;
- (c) the registration number;

- (d) the name and address of the registered owner;
- (e) any address for service;
- (f) a reproduction of the representation of the design included with the application;
- (g) particulars as to the article or articles in respect of which the design is registered; and
- (h) the number of the class and subclass of the Locarno classification of the article or articles in respect of which the design is registered.

(2) If a design is registered in accordance with section 11 of the Ordinance in association with a design which has been previously registered, the advertisement shall also contain the number or numbers of the previous registration or registrations and the number or numbers of the previous application or applications for registration.

DURATION OF REGISTRATION (SECTIONS 28 AND 30 OF ORDINANCE)

Section 28 Reminder of renewal of registration

Except where the period of registration of a design has already been renewed in accordance with section 28 of the Ordinance and section 29 of these Rules, the Registrar shall not earlier than 6 months nor later than 1 month before the end of the period of registration give written notice of the imminent expiration of the period to the registered owner and inform him that the period of registration may be renewed in the manner described in section 29.

Section 29 Renewal of registration

(1) If the owner of a registered design wishes to renew the period of registration of a design under section 28(2) of the Ordinance, an application shall be made on the specified form before the end of the current period of registration but not earlier than 3 months immediately preceding the end of the current period.

(2) If the owner of a registered design wishes to renew the period of registration of a design under section 28(5) of the Ordinance, an application shall be made on the specified form during the period of 6 months immediately following the end of the period specified in section 28(4) of the Ordinance.

(3) An application under subsection (1) or (2) shall be accompanied by the applicable fees.

(4) If an application is filed and the applicable fees are paid in accordance with subsection (1) or (2), the Registrar shall renew the registration of the design by making the appropriate entry in the Register.

Section 30 Notice of failure to apply for renewal

If, at the end of the current period of registration of a design, an application is not filed or the applicable fees are not paid in accordance with section 29(1), the Registrar shall publish notice of that fact in the official journal.

(2 of 2001 s. 27)

Section 31 Removal of registration

(1) If an application is not filed or the applicable fees are not paid in accordance with section 29(1) or (2), the Registrar shall remove the design from the Register.

(2) Notice of the removal of the registration of a design from the Register shall be published in the official journal. (2 of 2001 s. 27)

Section 32 Surrender of registration

(1) The registered owner of a design may surrender the registration of the design under section 30 of the Ordinance by filing a notice of surrender in the specified form.

(2) A notice filed under this section shall not be valid unless the registered owner in the notice--

(a) states that the registration is to be surrendered in respect of either--

(i) all of the articles for which the design is registered; or

(ii) articles specified in the notice;

(b) gives the name and address of each other person having a registered interest in the design; and

(c) certifies, in respect of every such person, that the person--

(i) has been sent not less than 3 months' notice of his intention to surrender the registration; or

(ii) is not affected by the surrender or, if affected, consents to the surrender.

(3) The surrender takes effect upon receipt by the Registrar of a notice which complies with subsection (2).

(4) A surrender of the registration of a design has the same effect in respect of the articles for which the design is surrendered as the registration of the design ceasing to have effect in respect of those articles.

(5) The Registrar shall, upon the surrender taking effect, make the appropriate entry in the Register and publish notice of the surrender in the official journal. (2 of 2001 s. 27)

RIGHTS IN REGISTERED DESIGNS (SECTIONS 34 AND 64 OF ORDINANCE)

Section 33 Transactions affecting rights in registered designs

(1) Subject to section 64(3) of the Ordinance, application may be made on the specified form for the registration of particulars concerning any transaction, instrument or event to which section 34 of the Ordinance applies and by virtue of which a person claims to have acquired a right in or under a registered design.

(2) The application shall contain the name and address of the person claiming or stated to have acquired the right together with full particulars of the transaction, instrument or event.

(3) The application shall be signed by or on behalf of--

(a) the assignor, where it relates to an assignment referred to in section 34(3)(a) of the Ordinance; (L.N. 38 of 2004)

(b) the mortgagor, where it relates to a mortgage referred to in section 34(3)(b) of the Ordinance; or

(c) the grantor, where it relates to the grant of a licence or sub-licence referred to in section 34(3)(c) of the Ordinance, or it shall be accompanied by such evidence as suffices to establish the assignment, mortgage or grant, as the case may be.

(4) In any case not covered by subsection (3), the application shall be accompanied by such evidence as suffices to establish the transaction, instrument or event.

Section 34 Registration of other transactions

(1) Subject to section 64(3) of the Ordinance, application may be made on the specified form for the registration of particulars concerning any transaction, instrument or event (other than one referred to in section 33) by virtue of which the ownership of, or any interest in, a registered design is purportedly affected.

(2) The application shall contain full particulars of the transaction, instrument or event.

Section 35 Cancellation of claim to be mortgagee or licensee

Where the name of a person is entered in the Register as mortgagee or licensee in respect of a registered design, such person may on making an application on the specified form have a notice entered in the Register that

he no longer claims to be mortgagee or licensee, as the case may be.

Section 36 Furnishing of evidence

The Registrar may require any person who makes an application under section 33, 34 or 35 to furnish him with such evidence as he may require in connection with the application within such period as he may specify.

LEGAL PROCEEDINGS (SECTIONS 44, 45, 46 AND 63 OF ORDINANCE)

References to Registrar

Section 37 Reference

(1) A reference to the Registrar under section 44 of the Ordinance of the question of whether, having regard to section 7 of the Ordinance, a design is a registrable design shall be made by filing-- (L.N. 38 of 2004)

(a) an application in the specified form; and

(b) a statement setting out fully the reference sought and the facts on which the applicant relies.

(2) The applicant shall, at the same time as he files the application and statement, send a copy of it to the registered owner of the design. (L.N. 38 of 2004)

(3) The Registrar shall enter a notice of the application in the Register and advertise the fact of the application having been filed in the official journal. (L.N. 38 of 2004)

Section 38 Notice of opposition

(1) If any person (including the registered owner) wishes to oppose an application under section 37, he shall, within 2 months from the date of the advertisement in the official journal, file a notice of opposition in the specified form setting out fully the grounds on which the opponent objects to the application and the facts on which he relies. (2 of 2001 s. 27; L.N. 38 of 2004)

(2) The opponent shall, at the same time as he files the notice of opposition, send a copy of it to the applicant. (L.N. 38 of 2004)

(3) This section and sections 39 to 44 do not apply in any case where the Registrar refers the question to the court for determination in accordance with section 46.

Section 39 Counter-statement

(1) Within 3 months from the date of the sending of the copy of the notice of opposition under section 38, the applicant shall file a counter-statement in the specified form setting out the grounds on which he relies as supporting his application and the facts, if any, alleged in the notice of opposition which he admits. (L.N. 38 of 2004)

(2) The applicant shall, at the same time as he files the counter-statement, send a copy of it to the opponent. (L.N. 38 of 2004)

Section 40 Evidence in support of opposition

(1) Within 3 months from the date of sending of the copy of the applicant's counter-statement under section 39, the opponent shall file such evidence as he may desire to adduce in support of his opposition and shall send to the applicant a copy of that evidence. (L.N. 38 of 2004)

(2) If the opponent fails to file evidence in accordance with subsection (1), he shall, unless the Registrar otherwise directs, be deemed to have abandoned the opposition.

Section 41 Evidence in support of application

If the opponent files evidence in accordance with section 40, the applicant shall, within 3 months from the date of sending of the copy of the opponent's evidence, file such evidence as he may desire to adduce in support of his application and shall send to the opponent a copy of that evidence.

Section 42 Evidence in reply

(1) The opponent may file further evidence, confined to matters strictly in reply, within 3 months from the date of sending of the copy of an applicant's evidence under section 41, and if the opponent files such further evidence he shall send a copy to the applicant.

(2) The applicant may file further evidence, confined to matters strictly in reply, within 3 months from the date of sending of the copy of an opponent's evidence, and if the applicant files such further evidence he shall send a copy to the opponent.

(3) No further evidence shall be filed by any party except by leave or direction of the Registrar.

Section 43 Directions on subsequent procedure

The Registrar may give such directions as he may think fit with regard to the subsequent procedure on an application under section 37.

Section 44 Notice of decision

(1) After hearing the party or parties wishing to be heard on an application under section 37 or, if no party so wishes, without a hearing, the Registrar

shall decide the matter and shall notify all parties of his decision and, if any party so requests, shall give his reasons for the decision.

(2) For the purpose of any appeal against the Registrar's decision under section 58 of the Ordinance, the date of the decision shall be the date when notice of the decision is sent under this section.

Section 45 Costs in unopposed cases

In the event that an application under section 37 is not opposed by the registered owner, the Registrar in deciding whether costs should be awarded to the applicant shall consider whether the proceedings might have been avoided if reasonable notice had been given by the applicant to the registered owner before the application was filed.

Section 46 Reference to court

(1) Where the Registrar receives an application under section 37 and decides to refer the question to the court for determination, he shall forthwith serve a copy of the reference to the court on the applicant and the registered owner of the design. (L.N. 38 of 2004)

(2) The Registrar shall enter a notice of the reference to the court in the Register and advertise the fact of the reference in the official journal. (2 of 2001 s. 27)

Applications to court

Section 47 Service on Registrar of applications

(1) Where application to the court is made under section 45 or 46 of the Ordinance for the registration of a design to be revoked, the applicant shall forthwith serve a copy of the application on the Registrar. (L.N. 38 of 2004)

(2) The Registrar shall enter a notice of the application in the Register.

Miscellaneous

Section 48 Filing of court orders, declarations or certificates

(1) Where any order or declaration is made or any certificate is granted by the court under the Ordinance, the person in whose favour such order, declaration or certificate has been made or granted or, if there is more than one, such one of them as the Registrar may direct, shall file a

certified copy of the order, declaration or certificate with the Registrar and, if rectification of the Register is required, the specified form.

(2) Where appropriate, the Register shall be rectified by the Registrar accordingly.

Section 49 Security for costs

(1) If a party in any proceedings before the Registrar neither resides nor carries on business in Hong Kong, the Registrar may require him to give security for costs in such form and in such amount as the Registrar considers sufficient.

(2) If the Registrar requires security to be given by any party in respect of an application, request or notice of opposition filed by him and the party fails to give such security as required, the Registrar may treat the application, request or notice of opposition as abandoned or withdrawn.

ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS (SECTIONS 66, 67, 68, 70, 71, 72, 73, 75, 76 AND 77 OF ORDINANCE)

Register of designs

Section 50 Service on Registrar of applications under section 66 of Ordinance

(1) Where application to the court is made under section 66 of the Ordinance for the rectification of the Register, the applicant shall forthwith serve a copy of the application on the Registrar. (L.N. 38 of 2004)

(2) The Registrar shall enter a notice of the application in the Register.

Section 51 Correction of errors in Register

(1) A request for the correction of an error in the Register under section 67 of the Ordinance shall be made on the specified form and shall clearly identify the proposed correction.

(2) The Registrar shall advertise the fact of the request and the nature of the proposed correction in the official journal. (2 of 2001 s. 27)

(3) If any person wishes to oppose the request, he shall, within 2 months from the date of the advertisement in the official journal, file a notice of opposition in the specified form setting out fully the grounds on which the opponent objects to the request and the facts on which he relies. (2 of 2001 s. 27; L.N. 38 of 2004)

(4) The opponent shall, at the same time as he files the notice of opposition, send a copy of it to the person making the request. (L.N. 38 of 2004)

(5) Within 3 months from the date of the sending of the copy of the notice of opposition under subsection (4), the person making the request shall file a counter-statement in the specified form setting out the grounds on which he relies as supporting his request and the facts, if any, alleged in the notice of opposition which he admits. (L.N. 38 of 2004)

(6) The person making the request shall, at the same time as he files the counter-statement, send a copy of it to the opponent. (L.N. 38 of 2004)

(7) The Registrar may give such directions as he may think fit with regard

to the subsequent procedure.

Section 52 Inspection of Register

Subject to sections 70 and 77 of the Ordinance and section 53, a person shall have the right to inspect the Register during the normal business hours of the Registry upon application made on the specified form.

(L.N. 38 of 2004)

Section 53 Designs relevant for defence purposes

Where the Registrar gives a direction under section 77(1) of the Ordinance, the representation of the design and any such evidence as is mentioned in section 77(2)(b) of the Ordinance shall not be open to public inspection in the Registry during the continuance in force of the directions.

Section 54 Certificates and copies

(1) Subject to sections 70 and 77 of the Ordinance, an application for a certified or uncertified copy of an entry in the Register or a certified or uncertified extract from the Register shall be made on the specified form and be accompanied by the applicable fee.

(2) Subject to sections 70 and 77 of the Ordinance, upon application made on the specified form and payment of the applicable fee, the Registrar may supply the person making the application with--

(a) a certified copy of any representation or other document kept in the Registry or a certified extract from any such document;

(b) a certificate for the purposes of section 65(2) of the Ordinance; or

(c) an uncertified copy of any representation or other document kept in the Registry or an uncertified extract from any such document.

Section 55 Information and inspection of documents

(1) A request under section 70 of the Ordinance for information, or for permission to inspect documents, relating to an application for registration of a design or to a registered design shall be made on the specified form.

(2) Subject to sections 70 and 77 of the Ordinance and subsections (4), (5), (5A) and (6), the Registrar shall permit the inspection of such documents relating to a registered design as are specified in the request. (L.N. 38 of 2004)

(3) Subject to sections 70 and 77 of the Ordinance and subsections (4), (5), (5A) and (6), the Registrar shall permit the inspection of such documents

relating to an application for registration of a design as are specified in the request if the person making the request files such evidence as proves to the satisfaction of the Registrar-- (L.N. 38 of 2004)

(a) that the owner or applicant (as the case may be) consents to the inspection; or

(b) that section 70(4) of the Ordinance applies in respect of the request.

(4) The Registrar shall not be obliged to permit the inspection of any document under this section before he has completed every procedure, or every stage in the procedure which is relevant to the document in question, which he is required or permitted to carry out under the Ordinance or these Rules. (L.N. 38 of 2004)

(5) The right of inspection under this section does not apply to--

(a) any document prepared in the Registry solely for use therein;

(b) any document sent to the Registry, whether at its request or otherwise, for inspection and subsequent return to the sender;

(c) any request for information under subsection (1); or

(d) any document issued by the Registry which the Registrar considers should be treated as confidential.

(5A) The right of inspection under this section extends only to documents and information kept by the Registry. (L.N. 38 of 2004)

(6) Nothing in this section shall be construed as imposing on the Registrar the duty of making available for public inspection--

(a) any document or part of a document which in his opinion disparages any person in a way likely to damage him; or

(b) any document filed with or sent to the Registry before the day appointed for the commencement of the Ordinance.

Section 55A Form in which the records of the Registry are kept, etc.

(1) The Registrar shall determine the form in which the records of the Registry are constituted and kept and may determine the period for which such records, or any document or other thing kept by the Registry, shall be kept and the circumstances in which they may be destroyed or otherwise disposed of.

(2) Where the Registrar keeps a record of a document or other thing in a form that differs from that in which the document or thing was originally filed with, or originally generated by, the Registrar, the record of that

document or thing shall be presumed, unless the contrary is shown, to accurately represent the information contained in the document or thing as originally filed or generated.

(L.N. 38 of 2004)

Section 56 Publication of business hours and business days of the Registry

Any directions given by the Registrar under section 71 of the Ordinance specifying the hours of business or business days of the Registry shall be posted in the Registry and published in the official journal.

(2 of 2001 s. 27; L.N. 38 of 2004)

Section 57 Publication and sale of documents

The Registrar may arrange for the publication and sale of documents and information by the Registry.

Filing and service of documents and related matters

Section 58 Signature of documents by partnerships, etc.

(1) A document signed for or on behalf of a firm shall be signed by its partners, by any partner stating that he signs on behalf of the firm or by any other person who satisfies the Registrar that he is authorized to sign the document.

(2) A document signed for or on behalf of a body corporate shall be signed by a director or the secretary or other principal officer of the body corporate or by any other person who satisfies the Registrar that he is authorized to sign the document.

(3) A document signed for or on behalf of an unincorporated body or association of persons other than a firm may be signed by any person who satisfies the Registrar that he is authorized to sign the document.

Section 59 Translation of documents

(1) Except as expressly provided in these Rules, where any document or part of a document which is not in one of the official languages is filed at the Registry or sent to the Registry in pursuance of the Ordinance or these Rules, it shall be accompanied by a translation into the language of the proceedings and such translation shall state the name of the translator and his official capacity, if any. (L.N. 38 of 2004)

(2) For the purposes of section 12(2)(d) of the Ordinance, if any document

supporting the statement under that section is not in one of the official languages, it shall be accompanied by a translation into the language of the proceedings.

- (3) The Registrar may, in respect of any document to be used for the purposes of evidence in proceedings before the Registrar and which is in a language other than the language of the proceedings, give directions as to--
- (a) the filing of the document in that other language;
 - (b) the filing of a translation of the document into the language of the proceedings.

Section 60 Filing of documents with the Registrar

(1) Any document or other thing required or authorized by the Ordinance or these Rules to be filed with the Registrar must be delivered by hand to the Registrar at the Registry during the normal business hours of the Registry or sent to the Registrar by post.

(2) Sending by post shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document or other thing, with the postage on it prepaid, to the Registrar at the office of the Registry; and the document or thing shall be deemed to have been received at the time when the letter is actually received by the Registrar at the Registry.

(3) The filing of a document or other thing with the Registrar shall be deemed to be effected at such time as it is received by the Registrar at the Registry and is recorded as received.

(L.N. 38 of 2004)

Section 60A Electronic filing

(1) The Registrar may at his discretion permit, as an alternative to the filing of a document or other thing with the Registrar in a paper or other physical form, the filing of an electronic record of that document or thing.

(2) The Registrar may at his discretion permit, as an alternative to delivering or sending a document or other thing to the Registrar in the manner provided by section 60, the sending of an electronic record of that document or thing by electronic means to an information system designated by the Registrar.

(3) The filing of an electronic record, and the sending of an electronic record by electronic means to the information system designated under

subsection (2), shall be subject to such terms as the Registrar may specify either generally by notice published in the official journal or in any particular case by notice to the person desiring to file an electronic record or to send an electronic record to the Registrar by electronic means.

(4) Where, in accordance with this section, a document or other thing in the form of an electronic record is sent by electronic means to the information system designated under subsection (2), the filing of that document or thing shall be deemed to be effected at such time as that electronic record is accepted by the designated information system.

(L.N. 38 of 2004)

Section 60B Terms for electronic filing

(1) Without limiting the generality of section 60A(3), the Registrar may specify terms under that section--

(a) providing for the approval by the Registrar of the process that must be used to make or send an electronic record;

(b) providing for the approval by the Registrar of the format or media in which an electronic record must be recorded or stored;

(c) respecting the manner of authenticating an electronic record in circumstances where the document or other thing in question is required to be signed or sealed or authenticated in any manner;

(d) requiring any document or other thing sent to the Registrar in the form of an electronic record to include or be accompanied by the electronic signature or digital signature of the person who sends it; and

(e) respecting the manner of filing a document or other thing in cases where there is an interruption in the operation of the information system designated under section 60A(2).

(2) Without limiting the generality of section 60A(3), the Registrar may refuse to accept or to register any document or other thing that is in the form of an electronic record if--

(a) the information contained in the electronic record is not capable of being displayed in a legible form;

(b) the electronic record is not capable of being stored in the information system designated under section 60A(2);

(c) the electronic record appears to the Registrar to be altered, damaged or incomplete;

(d) any electronic signature or digital signature or other kind of authentication accompanying or included with the electronic record appears to the Registrar to be altered or incomplete; or

(e) any term specified by the Registrar under that section has been breached.
(L.N. 38 of 2004)

Section 60C Designation of electronic mail box

(1) On the request of any person, the Registrar may designate an electronic mail box within an information system designated by the Registrar which may be used by that person to communicate with the Registrar.

(2) The use by any person of an electronic mail box within the designated information system shall be subject to such terms as the Registrar may specify either generally by notice published in the official journal or in any particular case by notice to the person for whom the electronic mail box is designated.

(3) Where the Registrar designates an electronic mail box for a person under this section, any document or other thing required or authorized by the Ordinance or these Rules to be sent by the Registrar to that person shall be deemed to be properly sent if it is sent in the form of an electronic record to that person's designated electronic mail box.

(4) Sending to a designated electronic mail box shall be deemed to be effected at such time as the electronic record is accepted by the designated information system.

(5) An electronic record sent to a designated electronic mail box shall be deemed to be received by the addressee at such time as the electronic record is accepted and recorded by that electronic mail box.

(L.N. 38 of 2004)

Section 61 Service of documents

(1) Except as provided by sections 60, 60A, 60B and 60C, where any document or other thing is required or authorized by the Ordinance or these Rules to be sent to any person--

(a) the document or other thing may be left at, or sent by post to, the address for service of the person; or

(b) if the person does not have an address for service, the document or other thing may be sent by post to his last known address.

(2) Sending by post shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document or other thing, with the postage on it prepaid, to the address for service of the person or, if

he does not have an address for service, at his last known address, and unless the contrary is shown, the document or thing shall be deemed to have been received by that person at the time when the letter would be delivered in the ordinary course of post.

(L.N. 38 of 2004)

Section 62 Correction of errors in filed documents

(1) A request for the correction of any error of translation or transcription or of any clerical error or mistake in any document referred to in section 76(1) of the Ordinance (other than an address or address for service) shall be made on the specified form and shall clearly identify the proposed correction.

(2) The Registrar may, if he thinks fit, require that the correction be shown on a copy of the document of which correction is sought.

(3) The Registrar shall advertise the request and the nature of the proposed correction in the official journal. (2 of 2001 s. 27)

(4) If any person wishes to oppose the request, he shall, within 2 months from the date of the advertisement in the official journal, file a notice of opposition in the specified form setting out fully the grounds on which the opponent objects to the request and the facts on which he relies. (2 of 2001 s. 27; L.N. 38 of 2004)

(5) The opponent shall, at the same time as he files the notice of opposition, send a copy of it to the person making the request. (L.N. 38 of 2004)

(6) Within 3 months from the date of the sending of the copy of the notice of opposition under subsection (5), the person making the request shall file a counter-statement in the specified form setting out the grounds on which he relies as supporting his request and the facts, if any, alleged in the notice of opposition which he admits. (L.N. 38 of 2004)

(7) The person making the request shall, at the same time as he files the counter-statement, send a copy of it to the opponent. (L.N. 38 of 2004)

(8) The Registrar may give such directions as he may think fit with regard to the subsequent procedure.

Section 63 Amendments of documents and rectification of irregularities

(1) Subject to section 21 of the Ordinance, any document filed in any proceedings before the Registrar and any drawing or other representation of a design may, if the Registrar thinks fit, be amended, and any irregularity in procedure in or before the Registry may be rectified, on such terms as he may direct.

(2) In the case of an irregularity or prospective irregularity--

(a) which consists of a failure to comply with any limitation as to any period of time specified in the Ordinance or these Rules which has occurred, or appears to the Registrar is likely to occur, in the absence of a direction under this section;

(b) which is attributable wholly or in part to an error, default or omission on the part of the Registry; and

(c) which it appears to the Registrar should be rectified,

the Registrar may direct that the period of time in question shall be altered, on such terms as he may direct.

Section 64 Alteration of name

(1) A request by any person upon the alteration of his name for that alteration to be entered in the Register or on any document filed at the Registry shall be made on the specified form.

(2) Before acting on a request to alter a name, the Registrar may require such proof of the alteration as he thinks fit.

(3) If the Registrar is satisfied that the request may be allowed, he shall cause the Register or document to be altered accordingly.

Address

Section 65 Address for service

(1) Every person concerned in any proceedings before the Registrar shall file an address for service.

(2) The address for service must be a residential or business address in Hong Kong.

(3) A person may file an address for service--

(a) where the person files any specified form that requires the person who

completes it to provide an address for service, by filing the specified form with the address for service stated on it; or

(b) in any other case, by notifying the Registrar in writing.

(4) Where a specified form referred to in subsection (3)(a) is filed in the name of 2 or more persons, the address for service stated on that form shall be treated as the address for service of each of those persons.

(5) An applicant for registration of a design or the registered owner of a design may use only one address for service for the purposes of all proceedings before the Registrar concerning that application or registered design.

(6) Subject to any filing to the contrary under this section, on the registration of a design, the address for service of the applicant for registration shall be treated as the address for service of the registered owner of the design for the purposes of all proceedings before the Registrar concerning that registered design.

(7) Where a person files an address for service for the purposes of any proceedings before the Registrar, that address shall be treated as being in substitution for any address for service previously filed by that person for the purposes of those proceedings.

(8) Where, after a person has become a party to proceedings before the Registrar, the person appoints an agent for the first time or appoints one agent in substitution for another, the newly appointed agent shall file an address for service.

(9) No act required or authorized by the Ordinance or these Rules to be done by or to a person referred to in subsection (8) in connection with the proceedings in question may be done by or to the newly appointed agent before the date on which he files an address for service.

(10) Any person may withdraw his address for service by notifying the Registrar in writing.

(L.N. 38 of 2004)

Section 65A Failure to file address for service

(1) Where an address for service is not filed as required by section 65, or where the Registrar is satisfied that the address for service of the

registered owner of a design or a party to any proceedings before the Registrar is no longer valid, the Registrar may send to the person concerned, at any of the addresses referred to in subsection (2), a notice to file an address for service.

(2) For the purposes of subsection (1), the addresses are--

- (a) any previously filed address for service of the person;
- (b) any address of the person in Hong Kong that is shown in the Register;
- (c) any residential or business address of the person in Hong Kong; and
- (d) any other address of the person that is known to the Registrar.

(3) If any person to whom a notice is sent under subsection (1) fails to file an address for service within 2 months after the date of the notice--

- (a) any application, notice or request filed by that person shall be treated as abandoned or withdrawn; and
- (b) the person shall be deemed to have withdrawn from any proceedings before the Registrar of which he is a party.

(4) This section is without prejudice to the operation of sections 21 and 22. (L.N. 38 of 2004)

Section 66 Alteration or correction of address

(1) A request by any person for the alteration or correction of his address or address for service entered in the Register or on any document filed at the Registry shall be made on the specified form or by notice in writing and shall identify the entry in the Register or the document to which the request relates. (L.N. 38 of 2004)

(2) If the Registrar is satisfied that the request may be allowed, he shall cause the Register or document to be altered or corrected accordingly.

Agents

Section 67 Recognition of agents

(1) The Registrar may by notice in writing require an agent to produce evidence of his authority.

(2) In any particular case the Registrar may require the personal signature or presence of any person.

(3) A person who is authorized by another person to act as his agent shall,

on or before the first occasion on which he acts as agent, notify the Registrar of the address in Hong Kong where he resides or carries on his business activities, which notice shall be given in the specified form or in writing. (L.N. 38 of 2004)

(4) If a person who has given notice under subsection (3) changes the address in Hong Kong where he resides or carries on his business activities, he shall notify the Registrar of the change as soon as practicable thereafter, which notice shall be given in the specified form or in writing. (L.N. 38 of 2004)

(5) No act required or authorized by the Ordinance or these Rules to be done by or to any person may be done by or to an agent of that person before the date on which the agent notifies the Registrar in accordance with subsection (3). (L.N. 38 of 2004)

(6) The Registrar may refuse to recognize as an agent in respect of any business under the Ordinance or these Rules--

- (a) a person who has been convicted of a criminal offence;
- (b) a person whose name has been struck off the roll of barristers or roll of solicitors kept under and in accordance with the Legal Practitioners Ordinance (Cap 159) or any person who has been suspended from acting as a barrister or solicitor;
- (c) a partnership or body corporate of which one of the partners or directors is a person whom the Registrar could refuse to recognize as an agent under paragraph (a) or (b);
- (d) a person against whom a disqualification order has been made under section 168E, 168F, 168G, 168H, 168J or 168L of the Companies Ordinance (Cap 32);
- (e) a person against whom an order has been made under section 23(1)(a) or 24(1) of the repealed Securities (Insider Dealing) Ordinance (Cap 395); or
- (f) a person against whom an order has been made under section 214(2)(d), 257(1)(a), 258(1) or 303(2)(a) of the Securities and Futures Ordinance (Cap 571). (L.N. 38 of 2004)

Note: Section 75(4) of the Ordinance provides that the Registrar shall refuse to recognize as an agent a person who neither resides nor has a place of business in Hong Kong. (L.N. 38 of 2004)

Hearings

Section 68 Exercise of Registrar's discretionary powers

Before exercising adversely to any party in a proceeding before him any discretion vested in him by the Ordinance or these Rules, the Registrar shall give that party at least 10 days' notice of the time when he may be heard unless the party consents to a shorter notice.

Section 69 Hearing in public, etc.

(1) Any hearing before the Registrar shall be in public unless he otherwise directs.

(2) In inter partes proceedings--

(a) any party who wishes to be heard shall give notice in writing to the Registrar;

(b) any party who intends to refer at the hearing to any document (other than a report of a decision of any court or of the Registrar) not already mentioned in the proceedings shall, unless the Registrar consents and the other parties agree, give at least 14 days' notice of his intention to do so and shall include with the notice details of, or a copy of, the document concerned.

(3) The Registrar may refuse to hear any party who has not given notice under subsection (2)(a) before the day appointed for the hearing.

(4) After hearing the party or parties wishing to be heard or, if no party so wishes, without a hearing, the Registrar shall decide the matter and shall notify all parties of his decision and, if any party so requests, shall give his reasons for the decision.

(5) For the purpose of any appeal against the Registrar's decision under section 58 of the Ordinance, the date of the decision shall be the date when notice of the decision is sent under this section.

Section 70 Language of hearing

(1) Any party in a hearing before the Registrar, or any witness or expert called to give evidence by such party, may use a language other than the language of the proceedings on condition that, at least 1 month before the date laid down for the hearing, the party gives to the Registrar and to the other parties notice of his intention to use, or to call a witness or expert who intends to use, a language other than the language of the proceedings.

(2) The Registrar--

(a) may require a party who gives notice under subsection (1) to make provision for interpretation into the language of the proceedings; and

(b) may authorize interpretation into one of the official languages and may give directions as to who should bear the expenses thereof.

(3) The Registrar may, subject to the consent of the parties concerned, give directions relating to the change of the language of proceedings on such terms as he may direct.

Evidence

Section 71 Evidence

(1) Where under the Ordinance or these Rules evidence may be filed, it shall be filed by statutory declaration or affidavit.

(2) The Registrar may if he thinks fit in any particular case take oral evidence in lieu of or in addition to such evidence and shall allow any witness to be cross-examined on his affidavit or declaration, unless he directs otherwise.

Section 72 Statutory declarations and affidavits

(1) Any statutory declaration or affidavit required by the Ordinance or these Rules, or used in any proceedings, shall be made and subscribed as follows--

(a) in Hong Kong, before any commissioner, notary, or other person authorized by the law of Hong Kong to administer an oath for the purpose of any legal proceeding; and

(b) in any place outside Hong Kong, before any court, judge, justice of the peace, notary public, officer or other person authorized by law to administer an oath or to exercise notarization functions in that place for the purpose of any legal proceeding.

(2) A person signing a declaration by virtue of the provisions of section 58 shall state thereon the capacity in which he makes the declaration.

Extension of time

Section 73 Extension of time

(1) The Registrar may, upon application made on the specified form by the person or party concerned and upon such notice to any person or party

affected as he may direct, extend or further extend any period of time for doing any act or taking any proceeding under these Rules, other than the periods referred to in section 29, on such terms as he may direct.

(2) An extension may be granted under this section notwithstanding that the period of time in question has already expired.

Section 73A Extension of time limits in the case of an interruption in the Registry's operations

(1) Where on any day there is an event or circumstances causing an interruption in the normal operation of the Registry, the Registrar may notify the day as being one on which there is an interruption in the operations of the Registry.

(2) Where any period of time specified in the Ordinance or these Rules, or as extended under these Rules, for the filing of any document or other thing with the Registrar expires on a day so notified, the period shall be extended to the first day next following (not being an excluded day) that is not so notified.

(3) Any notification given by the Registrar under this section shall be posted in the Registry.

(4) In this section, "excluded day" means a day that is not a business day of the Registry.

(L.N. 38 of 2004)

Fees

Section 74 Fees

(1) The fees to be paid in relation to any matter or proceeding under the Ordinance are those specified in the Schedule.

(2) The fee to be paid in respect of a matter or proceeding shall be paid at the time specified in the Schedule in respect of that matter or proceeding.

(3) Fees shall be paid by such means and in such manner as the Registrar directs.

TRANSITIONAL PROVISIONS (SECTION 92 OF ORDINANCE)

Section 75 Transitional provisions

(1) An application under section 92(2) of the Ordinance shall be made on the specified form.

(2) On an application being made under subsection (1), the Registrar may, if satisfied that the design is deemed by section 91 of the Ordinance to be registered under the Ordinance, enter in the Register the particulars referred to in section 25(1).

SCHEDULE FEES (Sections 2(2) & 74)

Fee No.	Matter or proceeding	Amount	When payable
1	Application for registration of a design under section 12 of the Ordinance and section 6 -- 1 design for articles not forming a set of articles	\$785 for each article to which the design is to be applied	On filing application
2	Application for registration of a design under section 12 of the Ordinance and section 6 -- 1 design for 1 set of articles	\$1,570	On filing application
3	Application for registration of a design under sections 12 and 13 of the Ordinance and sections 6 and 16 -- 2 or more designs for articles not forming a set of articles	\$785 for the first article to which the first design is to be applied and \$590 for each other article to which any of the designs is to be applied	On filing application
4	Application for registration of a design under sections 12 and 13 of the Ordinance and sections 6 and 16 -- 2 or more designs for articles forming a set of articles	\$1,570 for the first design and \$1,180 for each other design	On filing application
5	Request to amend an application for registration of a design under section 21 of the Ordinance and section 19	\$170	On filing request
6	Request to correct an error in the Register under section 67 of the Ordinance and section 51	\$170	On filing request
7	Request to correct an error of translation or transcription or of any clerical error or mistake in any document under section 76 of the Ordinance and section 62	\$170	On filing request
8	Notice requesting reinstatement of an application for registration of a design under section 20 of the Ordinance and section 18	\$245	On filing notice
9	For advertisement in the official journal of the registration of a design (2 of 2001 s. 27)	\$155	On filing application under section 12 of the Ordinance and section 6
10	For a certified copy of an entry in the Register or a certified extract from the Register under section 69 of the Ordinance and section 54	\$170	On filing application for copy
11	For a certified copy of document kept by the Registry, not otherwise	\$170	On filing application for

	charged		copy
12	For an uncertified copy of an entry in the Register or an uncertified extract from the Register under section 69 of the Ordinance and section 54	\$6 per page	On filing application for copy
13	For an uncertified copy of a document kept by the Registry, not otherwise charged	\$6 per page	On filing application for copy
14	For renewal of the period of registration under section 28(3) or (5) of the Ordinance and section 29 -- 1st 5-year extension	\$1,230	On filing application for renewal
15	For renewal of the period of registration under section 28(3) or (5) of the Ordinance and section 29 -- 2nd 5-year extension	\$1,860	On filing application for renewal
16	For renewal of the period of registration under section 28(3) or (5) of the Ordinance and section 29 -- 3rd 5-year extension	\$2,740	On filing application for renewal
17	For renewal of the period of registration under section 28(3) or (5) of the Ordinance and section 29 -- 4th 5-year extension	\$4,170	On filing application for renewal
18	For renewal of the period of registration under section 92(2) of the Ordinance and section 75	\$1,230	On filing application for renewal
19	Additional fee for the renewal of the period of registration under section 28(5) of the Ordinance and section 29	\$490	On filing application for renewal
20	Notice of particulars concerning any transaction, instrument or event under section 20	\$590	On filing notice
21	Application to register particulars of any transaction, instrument or event under section 33 or 34	\$590	On filing application
22	Reference to Registrar under section 44 of the Ordinance and section 37	\$345	On filing application under section 37
23	Counter-statement or notice of opposition under section 38, 39, 51 or 62	\$590	On filing counter-statement or notice of opposition
24	For certificate of Registrar under section 65(2) of the Ordinance and section 54	\$170	On filing application for certificate
25	(Repealed L.N. 38 of 2004)		
26	(Repealed L.N. 38 of 2004)		
27	For extending a period of time under section 73 (for each design)	\$390	On filing application for extension

(L.N. 38 of 2004)