

**NIGERIA**

**Design Rules**

under section 30, L.N. 96 of 1971

Commencement: December 1, 1971

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FIRST SCHEDULE

SECOND SCHEDULE FORMS (omitted)

## **1. FEES**

The fees to be paid in respect of any matter arising under the Act shall be those specified in the First Schedule to these Rules and in any case where a form specified in that Schedule as the corresponding form in relation to any matter is required to be used, that form shall be accompanied by the fee specified in respect of that matter.

## **2. FORMS**

(1) The Forms mentioned in these Rules are those contained in the Second Schedule to these Rules, accompanied by their appropriate fees, if any, and such forms shall be used in all cases in which they are applicable and may be modified as directed by the Registrar to meet other cases.

(2) Any Forms not contained in the Schedule to these Rules shall be prescribed by the Minister.

## **3. DOCUMENTS**

Subject to any direction that may be given by the Registrar in any particular case, all applications, notices, papers having representations affixed, and other documents lodged under the Act or these Rules shall be upon strong paper, and, except where otherwise required, on one side only, of a size approximately thirty-three centimetres by twenty centimetres and having on the left-hand part thereof a margin of approximately five centimetres.

## **4.**

(1) A document lodged by a firm shall contain the names of the partners in full and shall be signed by all the partners or by any partner stating that he signs on behalf of the partnership or by any other person who satisfies the Registrar that he is authorised to sign the document.

(2) A document lodged by a body corporate shall be signed by a director or by the secretary of such body corporate or by any other person who satisfies the Registrar that he is authorised to sign the document.

## **5.**

Any notice, application, or other document lodged by post shall be deemed to have been lodged at the time when the letter containing the same would be delivered in the ordinary course of post.

## **6. ADDRESS**

Where an address for service has not been furnished to the Registrar, the Registrar may treat the residential or business address as the address for service unless such residential or business address is out of Nigeria, in which case the Registrar need not proceed with the examination of the application until an address for service in Nigeria has been furnished to him.

## **7. AGENTS**

(1) An application for registration and all other communications between an applicant and .the Registrar, and between the registered proprietor of a design and the Registrar, or any other person, may be made by or through an agent.

(2) Any such applicant, registered proprietor or other person may appoint an agent to represent him in any proceeding or matter by signing and lodging with the Registrar an authority in writing to -that effect on Designs Form No.1, or in such other form as the Registrar may deem sufficient.

(3) In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing him, and all communications directed to be made to such person in respect of such proceeding or matter may be addressed to such agent and all attendances upon the Registrar relating thereto may be made by or through such agent.

(4) The Registrar may refuse to recognise as such agent in respect of any business under the Act from, (a) any individual whose name, by reason of his having been adjudged guilty of conduct discreditable to a patent agent, or (b) any company or firm, if any person whom the Registrar could refuse to recognise as agent in respect of any business under this Act is acting as director or manager or is a partner in the firm.

(5) In any particular case, the Registrar may, if he thinks fit, require the personal signature or presence of an applicant or other person.

## **8. APPLICATION FOR REGISTRATION**

An application .for registration of a design shall be signed by the applicant for registration or by his agent.

**9.**

Except as regards applications to register designs to be applied to textile articles, an application for registration of a design shall be on Designs Form NO.2 or 3, or in the case of a design to be applied to a set of articles on Designs Form No.4 or 5, as the case may be.

**10.**

Where it is desired to register the same design in respect of more than one article, a separate application shall be made in respect of each article. In that case each application shall be numbered separately and shall be treated as a separate and distinct application.

**11.**

(1) Every application shall state the article to which the design is to be applied, and that the applicant claims to be the statutory creator thereof, and shall state the name and address of the true creator.

(2) Except in the case of an application to register a design to be applied to a textile article, to wallpaper or to lace, the application shall further be accompanied by a statement of the features of the design.

**12.**

The applicant shall, if required by the Registrar in any case so to do, endorse on each of the representations or specimens a statement satisfactory to the Registrar.

**13.**

Except as regards applications for registration of designs to be applied to textile articles, there shall be furnished in connection with an application three identical representations of the design, in a form satisfactory to the Registrar, or three specimens. Where representations are supplied the Registrar may at any time before registration require more specimens or additional representations.

**14.**

(1) There shall be furnished in connection with an application for the registration of a design to be applied to a set of articles four identical representations of the design in a form satisfactory to the Registrar, or four specimens.

(2) The representations shall show the design as applied to each different

article included in the set.

**15.**

Each representation of the design, whether to be applied to a single article or to a set of articles, shall be upon paper of the size prescribed by rule 3 of these Rules and not on cardboard, and shall appear on one side only of the paper. The figure or figures shall be placed in an upright position on the sheet. When more figures than one are shown, these shall where possible be on one and the same sheet, and each shall be designated perspective view, front view, side view, plan or otherwise as the case may be.

**16.**

When the representations furnished are drawings or tracings, they shall be in ink, and if on tracing cloth or tracing paper shall be mounted on paper of the size prescribed by rule 3 of these Rules.

**17.**

When specimens are furnished and are not, in the Registrar's opinion, of a kind which can be conveniently mounted in a flat position by means of an adhesive upon paper, or by stitching on linen-backed sheets of paper of the size prescribed by rule 3 of these Rules and stored without damage to other documents, representations shall be furnished in place of specimens.

**18.**

When words, letters or numerals appear in the design but are not of the essence of the design, they shall be removed from the representations or specimens. Where they are of the essence of the design the Registrar may require the insertion of a disclaimer of any right to their exclusive use.

**19.**

Each representation of a design which consists of a repeating surface pattern shall show the complete pattern and a sufficient portion of the repeat in length and width, and shall not be of less size than seventeen centimetres by twelve centimetres.

**20.**

Where a portrait of the President or of any member of the National Assembly, or a reproduction of the armorial bearings, insignia, orders of chivalry,

decorations or flags of any country, state, city, borough, town, place, society, body corporate, institution or person appears on a design, the Registrar, before proceeding to register the design shall be furnished with a consent to the registration and use of such portrait or reproduction from such official or other person as appears to the Registrar to be entitled to give consent, and in default of such consent he may refuse to register the design.

**21.**

Where the name or portrait of a living person appears on a design, the Registrar shall be furnished with consent from such person before proceeding to register the design. In the case of a person recently dead the Registrar may call for consent from his personal representative before proceeding with the registration of a design on which the name or portrait of the deceased person appears.

**22. DESIGNS EXCLUDED FROM REGISTRATION**

There shall be excluded from registration under the Act, designs 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 and medals;
- (c) printed matter primarily of a literary or artistic character, including bookjackets, calendars, certificates, coupons, dressmaking patterns, greeting cards, leaflets, maps, plans, postcards, stamps, trade advertisements, trade forms, and cards transfers and the like.

**23. CONVENTION APPLICATIONS**

(1) An application for registration under section 15(3) of the Act shall contain a declaration that the application in a convention country upon which the applicant relies is the first application made in a convention country in respect of the design, whether by the applicant or by any person of whom he claims to be the personal representative or assignee, and shall specify the convention country in which such foreign application was made, or is to be deemed under section 27(3) of the Act to have been made, and the official date thereof.

(2) In addition to the representations or specimens lodged with every convention application there shall be lodged with the application or within three months thereafter, a copy of the representation of the design filed or deposited in respect of the first application in a convention country,

duly certified by the official chief or head of the Designs Office of the convention country, or otherwise verified to the satisfaction of the Registrar.

(3) If any certificate or other document relating to the application is in a foreign language, a translation thereof shall be annexed thereto and verified by statutory declaration or otherwise to the satisfaction of the Registrar.

**24.**

Save as provided by rule 23 of these Rules, all proceedings in connection with a convention application shall be taken within the times and in the manner prescribed by these Rules.

**25. PROCEDURE ON RECEIPT OF APPLICATION**

If upon consideration there appears to the Registrar to be any objection to the application, a statement of those objections shall be sent to the applicant in writing, and unless within one month thereafter the applicant applies for a hearing, he shall be deemed to have withdrawn his application.

**26.**

If the applicant applies for a hearing, the decision of the Registrar at such hearing shall be communicated to the applicant in writing.

**27.**

If the applicant desires to appeal from the Registrar's decision, he shall within one month from the date of the decision apply to the Registrar, requesting him to state in writing the grounds of, and the materials used by him in arriving at, his decision. Upon receipt of such application, the Registrar shall send to the applicant such statement as aforesaid in writing and the date when such statement is sent shall be deemed to be the date of the Registrar's decision for the purpose of an appeal.

**28. CERTIFICATE OF REGISTRATION**

The certificate of registration of a design shall be in the Designs Form No. 23, 24, 25 or 26, whichever is applicable, and may be modified as directed by the Registrar.

**29. NON-COMPLETION**

An application not completed within twelve months of the date of filing shall be rejected unless the applicant makes an application for extension



of time on Form 7 to the Registrar who at his discretion may allow such extension subject to any conditions he may impose:

Provided in any event that an application not completed within fifteen months of the original date of filing as a result of default of the applicant shall be rejected.

### **30. DEATH OF APPLICANT**

In case of the death of any applicant for the registration of a design after the date of his application, and before registration of the design has been effected, the Registrar may, on being satisfied of the applicant's death, enter in the Register, in place of the name, address and nationality of such deceased applicant, the name) address and nationality of the person owning the design on such ownership being proved to the satisfaction of the Registrar.

### **31. EXTENSION OF PERIOD OF COPYRIGHT**

(1) An application for extension of the period of copyright in a design registered by virtue of section 20 of the Act shall be made before the expiration of the period of copyright in the original registered design current at the date of lodging the application under section 20 of the Act.

(2) Where an application is made for registration of a design by virtue of section 20 of the Act and the period of copyright in the original registered design, current at the date of lodging the said application, expires before the completion of that application, registration shall not be effected until the copyright in the original registered design has been extended for a further period and an application has been lodged for the extension of the period of copyright in the design to be registered.

### **32.**

A request for an enlargement of time for payment of any fee payable for an extension of the period of copyright shall be made on Designs Form No. 10.

### **33. ASSIGNMENTS**

(1) An application for the registration of the title of any person becoming entitled by assignment, transmission or operation of law to a registered design or to a share in a registered design, or becoming entitled as mortgagee, licensee or otherwise to any interest in a registered design, shall be made-

- (a) by the person becoming so entitled on Designs Form No. 11;
- (b) by the assignor, licensor or other party, conferring the interest on Designs Form No. 12.

(2) Application may be made on Designs Form No. 13 for entry in the register of notification of any other document purporting to affect the proprietorship of a registered design.

**34.**

(1) An official or certified copy of any instrument or other document which is referred to in an application under rule 33 of these Rules and is a matter of record in the Federation shall be produced to the Registrar with the application.

(2) Any other document so referred to shall, unless the Registrar otherwise directs, be produced to him with the application and a certified copy of any such document shall be filed.

**35.**

An application under rule 33 of these Rules shall contain the name, address and nationality of the person claiming or stated to be entitled together with full particulars of the instrument, if any, under which title is claimed or given.

**36.**

Where the name of a person is entered in the register as mortgagee or licensee, such person may on making an application for the purpose on Designs Form No. 14 have a note entered in the register, that he no longer claims to be mortgagee or licensee, as the case may be.

**37.**

(1) An application by the registered proprietor of a design for the alteration of a name: nationality, or address for service entered on the register in respect of his design shall be made on Designs Form No. 15 or Designs Form No. 16, as the case may be.

(2) Before acting on a request to alter a name or nationality 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 to be altered accordingly.

#### **38. CORRECTION OF ERRORS**

Where an applicant for registration or the registered proprietor of a design desires, under the provisions of section 28(2) of the Act to correct an error, he shall make the application on Designs Form No. 17.

#### **39. CANCELLATION UNDER SECTION 21 OF THE ACT**

Where the registered proprietor of a design desires to cancel his registration, he shall make the application on Designs Form No. 18.

#### **40. DISCRETIONARY POWER**

Except as otherwise provided in these Rules, before exercising any discretionary power given to him by the Act or these Rules adversely to any applicant for registration of a design, the Registrar shall give at least ten days' notice to the applicant of the time when he may be heard.

#### **41. POWER TO DISPENSE WITH EVIDENCE**

Where under these Rules, any person is required to do any act or thing, or any document or evidence is required to be produced to or lodged with the Registrar or at the Office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or that such document or evidence cannot be produced or lodged as aforesaid, it shall be lawful for the Registrar, and upon the production of such other evidence and subject to such terms as he thinks fit, to dispense with the doing of any such act or thing, or the production or lodging of the document or evidence.

#### **42. AMENDMENTS**

If the Registrar thinks fit any document or drawing or other representation of a design may be amended, and any irregularity in procedure may be rectified, on such terms as the Registrar may direct.

#### **43. ENLARGEMENT OF TIME**

The times prescribed by these Rules for doing any act, or taking any proceeding thereunder, may be enlarged by the Registrar if he thinks fit, and upon such notice to the parties and upon such terms, as he may direct, and such enlargement may be granted though the time has expired for doing such act or taking such proceeding.

#### **44. CERTIFICATE BY REGISTRAR**

(1) Where a certificate is required for the purpose of obtaining

registration abroad, or for any legal proceedings, or other special purpose, as to any entry, matter, or thing which the Registrar is authorised by the Act or these Rules to make or do, the Registrar may on the lodging of a request on Designs Form No. 19, give such certificate, which shall also specify on the face of it the purpose for which it has been issued as aforesaid.

#### **45. DESIGNS NOT OPEN TO PUBLIC INSPECTION**

Where the Registrar has given a direction under section 18 prohibiting or restricting the publication of a design, the representation or specimen of the design shall not be open to public inspection while such direction remains in force.

#### **46. COPY OF CERTIFICATE OF REGISTRATION**

An application under section 28(3)(b) of the Act for a copy of a certificate of registration shall be made on Designs Form No. 6 and shall be accompanied by evidence setting out in full and verifying the circumstances in which the original certificate of registration was lost or destroyed or cannot be produced.

#### **47. EVIDENCE BEFORE REGISTRAR**

Where under these Rules evidence is required to be filed, it shall be by statutory declaration or affidavit, unless otherwise expressly provided in these Rules.

#### **48.**

(1) The statutory declaration and affidavits required by these Rules, or used in any proceedings thereunder, shall be headed in the matter or matters to which they relate, and shall be divided into paragraphs consecutively numbered, and each paragraph shall, so far as possible, be confined to one subject.

(2) Every statutory declaration or affidavit shall state the description and true place of abode of the person making the same, and shall be typed, lithographed, or printed.

#### **49.**

The statutory declaration or affidavits shall be made and subscribed, as follows: in the Federation, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the Federation to administer an oath for the purposes of any legal proceeding.

**50.**

Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person authorised by rule 49 of these Rules to take a declaration in testimony that the declaration was made and subscribed before him, may be admitted by the Registrar without proof of the genuineness of the seal or signature, or of the official character of the person or his authority to take the declaration.

**51.**

At any stage of any proceedings before the Registrar, he may direct that such documents, information or evidence as he may require shall be lodged, and may fix the period for the lodging thereof.

**52.**

(1) Applications for registration of designs to be applied to textile articles shall be made on Textiles Designs Form No.1 unless the design consists substantially of checks or stripes only, when the application shall be made on Textiles Designs Form No.2.

(2) If any question arises as to whether a design consists substantially of checks or stripes only, it shall be decided by the Registrar.

(3) Four identical representations of the design in a form satisfactory to the Registrar or four specimens shall be furnished in respect of any such application.

**53.**

There shall continue to be kept a register, to be called the textile register, wherein the entries made shall be duplicate of the entries in the register at the office relating to designs to be applied to textile articles.

**54. EXCLUDED DAYS AND HOURS OF BUSINESS**

Days which may, from time to time, be notified by a notice posted in a conspicuous place in the office shall be excluded days for purposes of the transaction of business of all classes or such class or classes as may be specified in the notices.

**55.**

The Patent Office shall be deemed to be closed at the following hours for the transaction of business under the Act of the classes specified

on weekdays at 1 p.m. for all classes of business.

#### **56. ORDERS OF THE COURT**

Where an order has been made by the Court in any case under the Act, the person in whose favour such order has been made shall forthwith lodge Designs Form No. 22 accompanied by an office copy of the order. The register shall, if necessary, thereupon be rectified by the making of any entry therein or the variation or deletion of any entry therein.

#### **57.**

In these Rules unless the context otherwise requires-

"Act" means the Patents and Designs Act;

"agent" means an agent duly authorised to the satisfaction of the Registrar;

"convention application" means an application in Nigeria under section 27 of the Act;

"lodged" means given, made or filed or sent through the post by a pre-paid letter addressed to the Registrar at the office.

"office" means the Designs Registry of the Patent Office;

"Register" means the Register of Industrial Designs kept under section 17 of the Act;

"specimen" means an article with the design applied to it.

"textile article" means textile goods and includes handkerchiefs and shawls and includes such other classes of articles of a similar character as the Registrar may from time to time decide.

#### **58.**

These Rules may be cited as the Designs Rules.

**FIRST SCHEDULE**

Subject or Proceeding		Amount		Corresponding Form
		₹	k	
1.	Form of Authorisation of Agent	00	00	Designs Form No. 1
2.	On application to register one design to be applied to a single article (not being textile articles).	4	00	Designs No. 2
	If made of lace (and applied to textiles)	84	00	Designs No. 3
3.	On application to register one design to be applied to a set of articles not being textile articles	37	80	Designs No. 4
		84	00	and 5
4.	On application for a copy of certificate of registration	4	20	Designs No. 6
5.	On request for extension of time within which an application for registration of a design may be completed:-			
	Not exceeding one month	6	00	Designs No. 7
	Not exceeding two months	12	00	Designs No. 7
	Not exceeding three months	18	00	Designs No. 7
6.	On application for extension of copyright under section 20(2) for second period	40	00	Designs No. 8
7.	On application for extension of copyright under section 20(2) for third period	60	00	Designs No. 9
8.	On request for enlargement of time for payment of fee for extension of copyright:			
	Not exceeding one month	6	00	Designs No. 10
	Not exceeding three months	12	00	Designs No. 10
	Not exceeding six months	18	00	Designs No. 10
9.	On request to enter subsequent proprietorship, &c. under rule 33 of these Rules made within six months from date of acquisition of proprietorship, &c.- In respect of one design	4	00	Designs No. 11 and 12
	Made after SIX but within twelve months from the date of acquisition of proprietorship &c.- In respect of one design	10	50	Designs No. 11 and 12
	Made after expiration of twelve months from the date of acquisition of proprietorship &c.- In respect of one design	21	00	Designs No. 11 and 12
	On application covering more than one design, for each additional design similarly acquired	2	00	-
10.	On application for entry of notification of document in the register made within			

	six months of date of document- In respect of one design	2 00	Designs No. 13
	Made after six but within twelve months from date of document- In respect of one design	10 50	Designs No. 13
	Made after expiration of twelve months from date of document- In respect of one design	21 00	Designs No. 13
	On application covering more than one design for each additional design referred to in the same document as the first design	2 10	-
11.	On application by mortgagee, licensee, or other person for entry that he no longer claims such interest- In respect of one design	4 00	Designs No. 14
12.	On application to enter change of name or nationality of registered proprietor in the register- In respect of one design	4 00	Designs No. 15
13.	On application for alteration of address or address for service in the register- In respect of one design	4 00	Designs No. 16
14.	On application under section 28 of the Act to correct error	4 00	Designs No. 17
15.	On application by proprietor for cancellation	10 00	Designs No. 18
16.	On application for certificate of Registrar for use in obtaining registration in a foreign country or for use in legal proceedings or other special purpose	50 00	Designs No. 19
17.	On notice that hearing of an application for cancellation will be attended	6 00	Designs No. 20
18.	Photographic copy of design or documents	Cost accord ing to agreem ent	-
19.	Office copy of documents every 100 words	(but never less than 10 k)	-
20.	Certificate of registration of Design	10 00	Designs No. 23, 24, 25 or 26
21.	Application for grant of compulsory licence under the First Schedule	16 00	Designs No. 21
22.	Application for entry of order of the Court in Register	20 00	Designs No. 22
23.	Certificate of Extension of copyright in design for the second period of five years	10 00	-
24.	Certificate of Extension of copyright in design for the third period of five years	10 00	-
25.	On application to register one design to	37 80	Textile Designs



	be applied to a textile article (not being checks or stripes)		No.1
26.	On application to register one design to be applied to a textile article (checks or stripes)	8 40	Textile Designs No.2

**SECOND SCHEDULE FORMS (omitted)**