

THE DESIGNS ACT

APPROVALS
(under section 2)

(Omitted)

RULES
(under section 29)

The Designs Rules, 1937

G.N. 1044/37
L.N. 171/83
29/92
66/99

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RULES
(under section 29)

THE DESIGNS RULES, 1937

(Made by the Registrar-General and approved by the Governor
on the 30th day of September, 1937)

G.N. 1044/37
Amdt.
L.N. 171/83
291/92
66/99

[16th December, 1937.]

1. These Rules may be cited as the Designs Rules, 1937.

Citation
and inter-
pretation.

In these Rules, unless the context otherwise requires—

“agent” means an agent resident in the Island;

“office” means the office of the Registrar of Companies;

“specimen” means an article of manufacture or a substance with
the design applied for;

“lodged” means left at the office or sent through the post by
prepaid letter addressed to the Registrar at the office;

“set” means a number of articles of the same general character
ordinarily on sale together or intended to be used together,
all bearing the same design, with or without modifications
or variations not sufficient to alter the character or substantially
to affect the identity thereof.

2. The fees to be paid in relation to designs shall be those prescribed
in the First Schedule.

Fees.
First
Schedule.

3. The forms herein referred to are the forms contained in the
Second Schedule and such forms shall be used in all cases to which
they are applicable and may be modified as directed by the Registrar
to meet other cases.

Forms.
Second
Schedule.

4. Where there is any doubt whether given articles do or do not
constitute a set, the doubt shall be determined by the Registrar.

Sets of
articles.

5. For the purposes of the registration of designs and of these Rules
goods are classified in the manner set out in the Third Schedule.

Classification
of goods.
Third
Schedule.

If any doubt arises as to the class to which any particular description of goods belongs, it shall be determined by the Registrar.

Size, etc., of documents.

6. Subject to other directions that may be given by the Registrar, all applications, notices, papers having representations affixed and other documents required by the Act or by these Rules to be lodged shall be upon strong paper, and except where otherwise required, on one side only, of a size of approximately 13 inches by 8 inches and having on the left-hand part thereof a margin of approximately two inches.

Signature of documents.

7. A document lodged by a partnership or firm shall contain the names of the partners in full and shall be signed by all the partners. A document lodged by a body corporate shall be signed by a director or by the secretary or other principal officer of such body corporate. A document lodged by an approved society as defined in the Act shall be signed by the secretary of such society.

Service of documents.

8. Any application, statement, notice or other document authorized or required to be lodged or to be left, made or given with or to any person under the Act or these Rules may be sent through the post by a prepaid letter; any document so sent shall be deemed to have been delivered at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service or sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Address.

9. Where any person is bound to furnish the Registrar with an address, the address given shall in all cases be full as possible, for the purpose of enabling any person easily to find the place of business of the person whose address is given.

Address for service.

10. Every applicant in any proceedings to which these Rules relate, and every person registered as proprietor of, a registered design, shall furnish to the Registrar, in addition to his full residential or business address, an address for service in this Island. Such address may be treated, for all purposes connected with such proceedings or design, as the actual address of such applicant or person and shall, in the case of a registered proprietor, be entered on the Register as the address for service of such proprietor.

Any written communication addressed to an applicant in any proceedings, or to any person registered as proprietor of, a registered design at his address for service shall be deemed to be properly addressed.

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 the Island, in which case the Registrar need not proceed with the examination of the application until an address for service in the Island has been furnished to him.

11. 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. Agents.

Any such applicant or proprietor may appoint an agent to represent him in the matter of the design by signing and sending to the Registrar an authority in writing to that effect on Form Designs No. 1 or in such other form as the Registrar may deem sufficient. In case any registered proprietor of a design shall appoint such an agent, service upon such agent of any document relating to such design 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 design may be addressed to such agent. Form
Designs
No. 1.

The Registrar shall not be bound to recognize as such agent or to receive further communications in respect of any business under the Act from any person who has been guilty of conduct discreditable to such an agent, or any company, which if it had been an individual, the Registrar could refuse to recognize as an agent, or any company or firm, if any person whom the Registrar could refuse to recognize as an agent acts as director or manager of the company or is a partner in the firm. In any particular case, the Registrar may, if he thinks fit, require the personal signature or presence of an applicant or other person.

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

13. An application for registration of a design shall be lodged at the office and shall be on Form Designs No. 2 or in the case of a set on Form Designs No. 3. Form of
application.
Form
Designs Nos.
2 and 3.

- Class.** 14. An application shall state the class in which the designs is to be registered, and where it is desired to register the same design in more than one class, a separate application shall be made in respect of each class. In that case each application shall be numbered separately, and shall be treated as a separate and distinct application.
- Application of design.** 15. Every application shall state the article or articles to which the design is to be applied and where the Registrar so requires, the applicant shall further state for what purpose the article to which the design is to be applied is used and the material or the predominating material of which the article is made.
- Statement of novelty.** 16. The applicant may, and shall if required by the Registrar in any case so to do, indorse on the application and each of the representations a brief statement of the novelty he claims for his design.
- Representations.** 17. There shall be furnished in connection with an application for the registration of a design to be applied to a single article, three identical representations of the design, in a form satisfactory to the Registrar, or three specimens.
- Representations for set.** 18. There shall be furnished in connection with an application for the registration of a design to be applied to a set four identical representations of the design, in a form satisfactory to the Registrar, or four specimens.
- Representations or set.** 19. When the design is to be applied to a set, each of the representations accompanying the application should show all the various arrangements in which it is proposed to apply the design to the articles included in the set.
- Nature of representations.** 20. Each representation of the design, whether to be applied to a single article or to a set of articles, must be upon paper of the size prescribed by rule 6 and not on cardboard, and must appear on one side only of the paper. The figure or figures must be placed in an upright position on the sheet. When more figures than one are shown, these should where possible be on one and the same sheet, and each must be designated perspective view, front view, side view or otherwise as the case may be.
- Drawings, etc., must be in ink.** 21. When drawings or tracings are furnished, they must be in ink, and if on tracing cloth or tracing paper must be mounted on paper of the size prescribed by rule 6.

22. When the specimens 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 of the size prescribed by rule 6 and stored without damage to other documents, representations shall be furnished in place of specimens.

Special representations.

23. Where words, letters or numerals 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.

Words, etc., on designs.

24. Each representation of a design which consists of a repeating surface pattern must show the complete pattern and a sufficient portion of the repeat in length and width, and shall not be of less size than 7 inches by 5 inches.

Repeat of pattern.

25. Where representations are supplied, the Registrar may at any time require specimens or additional representations.

Specimens of designs.

26. Where the names or representations of living persons appear on a design, the Registrar shall be furnished, if he so require, with consents from such persons before proceeding to register the design. In the case of persons recently dead the Registrar may call for consents from their legal representatives before proceeding with the registration of a design on which their names or representations appear.

Representations of living persons or persons recently dead.

27. 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 the applicant applies for a hearing, he shall be deemed to have withdrawn his application.

Objections.

28. The decision of the Registrar at such hearing as aforesaid shall be communicated to the applicant in writing, and if he objects to such decision, and desires to appeal, he shall within one month apply to the Registrar upon Form Designs No. 4 requesting him to state in writing the grounds of and the materials used by him in arriving at his decision.

Decision of Registrar.

Form Designs No. 4.

Date for
appeal.

29. 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.

Non-comple-
tion
within twelve
months.

30. Where an application for registration of a design is not completed within twelve months from the date of the application by reason of default or neglect on the part of the applicant, the Registrar shall give notice to the applicant in writing of such non-completion, and if the applicant has an agent, shall send a duplicate of such notice to such agent. If after fourteen days from the date when such notice was sent, the application is not completed, the application shall be deemed to be abandoned, unless application is made on Form Designs No. 5 for an extension of time, not exceeding three months, within which the application for registration may be completed.

Form Designs
No. 5.

Death of
applicant
before regis-
tration.

31. 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 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.

Joint request
for entry of
assignment,
etc.

32. Where a person becomes entitled by assignment, transmission or other operation of law to the copyright in a registered design, he may, conjointly with the registered proprietor, make application to the Registrar on Form Designs No. 6 to register his title.

Form Designs
No. 6.

Application
for entry of
assignment by
subsequent
proprietor.

33. Where a person becomes entitled to the copyright in a design or to any interest therein in the manner referred to in rule 32 and no conjoint application as therein mentioned is made, he shall make application to the Registrar on Form Designs No. 7 to register his title.

Form Designs
No. 7.

Particulars in
application.

34. An application under rule 32 or rule 33 shall contain the name, address and nationality of the person claiming to be entitled together with full particulars of the instrument, if any, under which he claims, and such instrument shall be produced for inspection by the Registrar.

35. The applicant shall, if so required by the Registrar, lodge at the office an attested copy of any instrument produced for inspection in proof of title.

Copies for office.

36. When the Registrar is satisfied as to the applicant's title he shall cause the applicant to be registered as proprietor, and shall record in the Register such particulars as he may consider necessary of the instrument, if any, under which the title was acquired.

Entry on Register.

37. When the registered proprietor of a design changes his name, he shall make application on Form Designs No. 8 for entry of such change of name in the Register and such application shall be accompanied by documentary evidence substantiating such change of name.

Change of name.
Form Designs No. 8.

38. Every registered proprietor of a design who alters his address, or his address for service, shall forthwith apply to the Registrar on Form Designs No. 9 and the Registrar shall alter the Register accordingly.

Alteration of address in Register.
Form Designs No. 9.

39. Where an applicant for registration or the registered proprietor of a design desires, under the provisions of section 21 of the Act to correct an error, he shall make the application on Form Designs No. 10.

Correction by applicant or proprietor.
Form Designs No. 10.

40. Before exercising any discretionary power given to the Registrar by the Act or these Rules adversely to any person, the Registrar shall give such person not less than ten days' notice of a time when he may be heard by himself or his agent.

Hearing.

Within five days from the date when such notice would be delivered in the ordinary course of post, the person concerned shall notify the Registrar whether or not he intends to be heard on the matter.

41. The decision of the Registrar in the exercise of any such discretionary power, as aforesaid, shall be notified to the person affected.

Notification of decision.

42. Where any person desires to obtain the information which he is entitled to obtain under section 9 of the Act, and can furnish the registration number of the design, he shall apply on Form Designs No. 11 and the Registrar will thereafter furnish him with the information aforesaid.

Inspection under section 9.
Form Designs Nos. 11 and 12.

Where the applicant is unable to furnish the registration number of the design, he shall apply on Form Designs No. 12 and furnish to the Registrar such information as he may possess, and the Registrar will thereupon make such search in the class indicated as may be possible on the information supplied, and will furnish such information as can be afforded. Where Form Designs No. 12 is accompanied by a representation or specimen of the design, such representation or specimen shall be furnished in duplicate.

Search
among
registered
designs.
Form Designs
No. 13.

43. The Registrar may, upon application for the purpose made on Form Designs No. 13, cause a search to be made among the registered designs and state whether any design accompanying such form and to be applied to goods in any particular class appears to be identical with, or closely to resemble any registered design applied to such goods of which the copyright is still existing. The design accompanying Form Designs No. 13 shall be furnished in duplicate.

Hours of
inspection.

44. The office shall, except on public holidays be open to the public, between the hours of 9.00 a.m. and 3.30 p.m. every day from Monday to Thursday and between the hours of 9.00 a.m. and 3.00 p.m. on Fridays.

Amendment
of
documents.

45. If the Registrar think 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, if in the opinion of the Registrar such amendment or rectification can be made without detriment to the interests of any person.

Enlargement
of time.

46. The time prescribed by these Rules for doing any act, or taking any proceeding thereunder, other than the times prescribed by rule 30, may be enlarged by the Registrar if he think fit, and upon such notice to other parties, and proceedings thereon, 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.

Excluded
days.

47. Whenever the last day fixed by the Act or by these Rules for doing any thing shall fall on a day when the office is not open, which days shall be excluded days for the purposes of the Act and these Rules, it shall be lawful to do any such act or thing on the day next following such excluded day, or days if two or more of them occur consecutively.

48. Where a certificate is required for the purpose of any legal proceeding, or other special purpose, as to any entry, matter, or thing which the Registrar is authorized by the Act or these Rules to make or do, the Registrar may, on the lodging of a request on Form Designs No. 14, give such certificate, which shall also specify on the face of it the purpose for which it has been issued as aforesaid.

Certificate for use in legal proceedings or other purpose. Form Designs No. 14.

49. Before delivery on sale of any article to which a registered design has been applied, the proprietor of such design shall cause each such article to be marked with the word REGISTERED or with the abbreviation REGD. or with the abbreviation RD. as he may choose, and also with the number appearing on the certificate of registration.

Registration mark.

50. When a design is registered, there shall be entered in the Register, in addition to the particulars prescribed by the Act, such other particulars as the Registrar may deem necessary.

Registering design.

51. An application for the cancellation of the registration of a design under section 11 of the Act shall be made on Form Designs No. 15. Such application shall be accompanied by an unstamped copy thereof and a statement in duplicate setting out fully the nature of the applicant's interest and the facts upon which he bases his case and the relief which he seeks. Copies of the application and the statement of case will be transmitted by the Registrar to the registered proprietor.

Cancellation of registration of designs and applications for compulsory licences under section 11. Form Designs No. 15.

52. If the registered proprietor is desirous of opposing the application, he shall, within 14 days of the receipt of such copies or such further time as the Registrar may allow, leave at the office a counter-statement fully setting out the grounds on which the application is to be opposed and shall deliver to the applicant a copy thereof.

Counter-statement.

53. The applicant shall, within fourteen days from the delivery of such copy or within such further time as the Registrar may allow, leave at the office evidence by way of a statutory declaration in support of his case and shall deliver to the registered proprietor a copy thereof.

Applicant's evidence.

54. Within 14 days from the delivery of such copy or such further time as the Registrar may allow, the proprietor may leave at the office statutory declarations in answer and, on so leaving, shall deliver to the applicant a copy thereof and within fourteen days from

Proprietor's evidence.

Evidence in
reply.

such delivery or within such further time as the Registrar may allow, the applicant may leave at the office statutory declarations in reply, and on so leaving, shall deliver to the proprietor a copy thereof. Such last-mentioned declaration shall be confined to matters strictly in reply.

Closing of
evidence.

55. No further evidence shall be delivered by either party except by leave or on requisition of the Registrar.

Hearing.

56. On completion of the evidence, or at such other time as he may see fit, the Registrar shall appoint a time for the hearing of the case, and give the parties ten days' notice at least of such appointment, and in the event of his deciding to take evidence *viva voce* in lieu of, or in addition to, the evidence by declaration, or to allow any declarant to be cross-examined on his declaration, he may require the attendance of any declarant or other person whose evidence he may consider desirable. If either party does not desire to be heard, he shall as soon as possible notify the Registrar to that effect. If either party desires to be heard he must give notice to the Registrar on Form Designs No. 16. The Registrar may refuse to hear either party who has not left Form Designs No. 16 prior to the date of the hearing.

Form Designs
No. 16.

Costs on
uncontested
application.

57. In the event of an application for the cancellation of the registration of a design being uncontested by the proprietor, the Registrar in deciding whether costs should be awarded to the applicant shall consider whether proceedings might have been avoided if reasonable notice had been given by the applicant to the registered proprietor before the application was filed.

Lost
certificate.
Form Designs
No. 17.

58. An application for a duplicate of a certificate of registration which has been lost or destroyed shall be made on Form Designs No. 17 and shall be accompanied by a statutory declaration setting out in full and verifying the circumstances in which the original certificate of registration was lost or destroyed.

Form, etc.,
of statutory
declaration.

59. The statutory declarations 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. Every statutory declaration shall state the description and true place of abode of the person making the same and shall

bear the name and address of the person making the same, and shall bear the name and address of the person leaving it, and shall state on whose behalf it is left.

60. Four clear days' notice of every application to the Court under section 23 of the Act shall be given to the Registrar.

Notice to Registrar of application under section 23.

61. 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, or such one of them, if more than one, as the Registrar may direct, shall forthwith serve on the Registrar an office copy of such order, together with Form Designs No. 18. The Registrar shall, if necessary, thereupon be rectified or altered by the Registrar.

Order of Court.

Form Designs No. 18.

62. Whenever an order has been made by the Court under the Act the Registrar may, if he thinks that the effect of such order should be made public, advertise a notice thereof in the *Jamaica Gazette*.

Publication of order of Court.

FIRST SCHEDULE

(Rule 2)

Fees

The following fees shall be paid under the Act. Such fees shall in all cases be paid before or at the time of doing the matter in respect of which they are to be paid—

<u>Subject or Proceeding</u>	<u>Amount</u>
1. On application to register one design to be applied to a single article in a class	\$1,500.00
2. On application to register one design to be applied to a set of articles in a class	\$1,500.00
3. On application to Registrar of Companies to state grounds of decision and materials used under rule 28	\$1,000.00
4. On application for extension of time within which an application for registration of a design may be completed—	
Not exceeding one month	\$750.00
Not exceeding two months	\$500.00
Not exceeding three months	\$750.00
5. On joint application to enter name of subsequent proprietor—	
In respect of one design	\$600.00
For each additional design	\$250.00
6. On application to enter name of subsequent proprietor under rule 33—	
In respect of one design	\$600.00
For each additional design	\$250.00
7. On application for entry or notification of document in the Register of Designs, made after six months from date of document—	
In respect of one design	\$500.00
For each additional design	\$250.00
8. On application to enter change of name of registered proprietor in the Register—	
In respect of one design	\$600.00
For each additional design	\$250.00
9. On application for alteration of address or address for service in the Register—	
In respect of one design	\$600.00
For each additional design	\$250.00
10. On application under section 18 to correct error	\$600.00
11. On application for inspection under section 9 when registration number is supplied	\$250.00
12. On application for search under section 9 when registration number is not supplied	\$300.00
13. On application for search under rule 43	\$300.00
14. On application for Certificate of Registrar for legal proceedings or other special purpose	\$250.00
15. On application for cancellation under section 11	\$250.00

[The inclusion of this page is authorized by L.N. 102/2001]

FIRST SCHEDULE, *contd.*

Fees, contd.

<u>Subject or Proceeding</u>	<u>Amount</u>
16. On notice that hearing of an application for cancellation under section 11 will be attended	\$250.00
17. On application for entry of order of Court in Register	\$600.00
18. Office or photographic copy of design or documents	Cost according to agreement
19. For office copy of document	\$50.00 per page
20. For certifying office copies	\$100.00
21. For supplying information via facsimile (per page)—	
U.S.A., Canada, Caribbean	\$200.00
Jamaica	\$50.00
Other countries	\$300.00

SECOND SCHEDULE

Form Designs No. 1

(Rule 11)

The Designs Act

AUTHORIZATION OF AGENT

I (or We) have appointed (a).....

 of.....

 to act as my (or our) agent for (b).....

 and request that all notices, requisitions and communications relating thereto may be sent to such agent at the above address. I (or We) revoke all previous authorizations, if any.

I (or We) hereby declare that I am (or we are) a (c).....

(d).....

Address.....

Dated this.....day of.....19.....

To the Registrar of Companies,
 Kingston.

(a) Here insert name and address of agent.

(b) Here state the particular purpose for which the agent is appointed.

(c) Here state nationality.

(d) To be signed by the person appointing the agent.

SECOND SCHEDULE, contd.

Form Designs No. 2

(Rule 13)

The Designs Act

APPLICATION FOR REGISTRATION OF DESIGN

Application is hereby made for registration of the accompanying design in Class....., in the name of (a).....

(a) Here insert in full the name, address and nationality of the applicant or applicants.

of.....

who claims to be the proprietor thereof.

(b) Here state the article to which the design is to be applied as shown in the representations.

The design is to be applied to (b).....

My (or Our) address for service in Jamaica is.....

(d) Signature.

(d).....

Dated this.....day of.....19.....

To the Registrar of Companies, Kingston.

N.B.—Three identical representations or specimens of the design should accompany this Form.

Form Designs No. 3

(Rule 13)

The Designs Act

APPLICATION FOR REGISTRATION OF DESIGN TO BE APPLIED TO A SET

Application is hereby made for registration of the accompanying design for a set of articles in Class.....in the name of (a).....

of.....

who claims to be the proprietor thereof.

The design is to be applied to (b).....

My (or Our) address for service in Jamaica is.....

(d).....

Dated this.....day of.....19.....

To the Registrar of Companies, Kingston.

N.B.—Four identical representations or specimens of the design should accompany this Form.

