

DEPARTMENT OF TRADE AND INDUSTRY
DEPARTEMENT VAN HANDEL EN NYWERHEID

No. R. 602

1 July 2005

COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE

AMENDMENT OF THE REGULATIONS ISSUED UNDER THE DESIGNS ACT,
1993 (195 OF 1993)

I, MANDISI MPAHLWA, the Minister of Trade and Industry has under section 54 of the Designs Act, 1993 (Act 195 of 1993) read with section 28 of the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), amended the Designs Regulations, 1999, in accordance with the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing regulations.

_____ Words underlined with a solid line indicate insertions in existing regulations.

Definitions

1. In these regulations "the Regulations" mean the Designs Regulations, 1999, published under Government Notice No. R.844 of 2 July 1999.

Amendment of regulation 1 of the Regulations

2. Regulation 1 is hereby substituted by the following regulation:

"1. In these regulations any expression to which a meaning has been assigned in the Designs Act, 1993 (Act 195 of 1993), shall, unless the context otherwise indicates, bear the meaning so assigned, and-

'access code' means the unique identification particulars, whether alphanumeric, biometric or otherwise, enabling the CIPRO system to identify a person;

'CIPRO' means the Companies and Intellectual Property Registration Office that constitutes a combined administrative office for the various registration offices established or deemed to be established under the Act, the Patents Act, 1978 (Act 194 of 1993), the Trade Marks Act, 1993 (Act 194 of 1993), the Registration of Copyright in Cinematograph Films Act, 1977 (Act 62 of 1977), the Close Corporations Act, 1984 (Act 69 of 1984) and the Companies Act, 1973 (Act 61 of 1973);

'CIPRO customer' means any person using electronic services and includes any person who has been allowed by the Registrar to use electronic services, who is legally entitled to act on behalf of a natural or juristic person, and who has thus been allowed to use or provide electronic services or to act as an intermediary in respect of electronic services;

'CIPRO portal' means the Internet website or other electronic portal forming a part of the CIPRO system;

'CIPRO portal' means the Internet website or other electronic portal forming a part of the CIPRO system;

'CIPRO record retention system' means the system used by CIPRO to store records for subsequent access, whether in paper, microfilm, electronic or any other form;

'CIPRO system' means the computer system, including the CIPRO portal, through which CIPRO provides electronic services, irrespective of the medium or form of technology underlying or forming part of such services;

'electronic services' means the services provided or made available by CIPRO through the CIPRO system in terms of regulation 1A;

'inspect' includes obtaining access to a record via the CIPRO system;

'lodae' includes the creation of a record on the CIPRO system;

'office' means the designs office established under section 4 of the Act;

'operational requirements' means the requirements provided for in regulation 1A(2);

'record' includes a document and vice versa;";

'specimen' means an article with a design applied to it; and

'the Act' means the Designs Act, 1993 (Act No. 195 of 1993)."

Insertion of regulation 1A in the Regulations

3. The following heading and regulation is hereby inserted after regulation 1:

"ELECTRONIC SERVICES

1A. (1) The Reaistrar may direct by notice in the Gazette that any requirement under the Act or these renulations. including requirements in respect of information, records and payment. mav or must be satisfied in electronic form, subject to the provisions of the operational requirements.

(2) The Reaistrar must publish operational requirements on the CIPRO portal settina out the requirements, processes and procedures in respect of all or certain electronic services. includinn-

(a) reaistration procedures;

(b) identification, authentication and verification;

(c) form and format of records;

(d) manner and form of payment;

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- (e) information security requirements: and
- (f) record retention requirements.
- (3) The operational requirements may be published in different forms over different parts of the CIPRO portal.
- (4) Unless another form of electronic signature is specified in the operating requirements, any signature requirement under the Act or these regulations in respect of a record to be accessed from or loaded with CIPRO is satisfied by the CIPRO user entering his access code on the CIPRO system and any record loaded after the CIPRO user has entered the access code shall be deemed to have been duly signed by the person whose signature is required under the Act or these regulations for purposes of such record.
- (5) Where any form under the Act or regulations makes provision for a signature and such form is deemed to be signed as provided for in sub-regulation (4), it shall not be necessary to have recorded on such form that it had been signed.
- (6) Unless CIPRO receives prior written notification from the holder of an access code to disable such access code, CIPRO shall be entitled to accept that the person using electronic services is the person to whom the access code was issued or such person's duly authorized representative acting within the scope of such person's authority.
- (7) CIPRO may suspend or terminate electronic services at any time without incurring any liability for doing so: Provided that proper notice of such suspension or termination shall be given and that such suspension or termination will not affect existing rights of any person who has been using such electronic services."

Amendment of regulation 3 of the Regulations**4.** Regulation 3 is hereby amended –

(a) by the substitution for sub-regulation (1) of the following sub-regulation:

“(1) The fees to be paid in terms of the Act shall be the fees specified Schedule 1 hereto, and shall be payable **[as follows:**

(a) By affixing or applying revenue stamps to any relevant document, which stamps may be cancelled by a receiver of revenue or the registrar; or

(b)] in such **[other]** manner as the registrar may direct.”; and

(b) by the deletion of sub-regulation (2).

Amendment of regulation 4 of the Regulations**5.** Regulation 4 is hereby substituted by the following regulation:

“(4) The forms referred to in these regulations are the forms contained in Schedule 2 hereto, and such forms whether in paper form or in any electronic form authorized by the registrar for electronic services, shall be used substantially in the manner prescribed for those cases to which they are applicable, but they may be modified or amended with the approval of the registrar and to the extent necessary to meet the requirements of other cases.”.

Amendment of regulation 7 of the Regulations**6.** Regulation 7 is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) An address or an address for service may, in addition, include a facsimile transmission number and an e-mail address.”.

Amendment of regulation 10 of the Regulations

7. Regulation 10 is hereby amended-

(a) by the substitution for sub-regulation(2) of the following sub-regulation:

“(2) All such documents shall be so presented as to permit reproduction by photography, [or] reprography or electronic means of an unlimited number of copies. Where paper forms are used, [Only] *only* one side of a sheet shall be used, except where otherwise specified.”;

(b) by the substitution for sub-regulation (3) of the following sub-regulation:

“(3) Save as specifically provided otherwise, all documents shall be on A4 paper, which shall be strong, pliable and durable or in such electronic form as authorized by the registrar for electronic services. Each sheet shall be used with its short sides at the top and bottom (except where inappropriate in the case of representations).”.