

No. R. 604

1 July 2005

**COMPANIES AND INTELLECTUAL PROPERTY REGISTRATION OFFICE****AMENDMENT OF THE REGULATIONS ISSUED UNDER THE PATENTS ACT,  
1978, (ACT 57 OF 1978)**

I, MANDISI MPAHLWA, the Minister of Trade and Industry have under section 91 of the Patents Act, 1978 (Act 57 of 1978), read with section 28 of the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002), amended the Patent Regulations, 1978, 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 Patent Regulations, 1978, published under Government Notice No. R.2470 of 15 December 1978, as corrected by Government Notice No. R.697 of 30 March 1979 and as amended by Government Notices Nos. R.1110 of 30 May 1984, R.1613 of 3 August 1984, R.1364 of 4 July 1986, R.1482 of 29 July 1988, R.2703 of 15 December 1989, R.3038 of 28 December 1990, R.687 of 28 March 1991, R.1566 of 5 July 1991, R.3163 of 27 December 1991, R.3433 of 31 December 1992, R.2514 of 31 December 1993, R.478 of 31 March 1995, R.49 of 19 January 1996, R.309 of 28 February 1997, R.963 of 11 July 1997, R.250 of 26 February 1999, R.327 of 12 March 1999, R.824 of 28 June 1999, R.1270 of 21 October 1999, R.1552 of 30 December 1999, R.1432 of 29 December 2000, R.309 of 30 March 2001, R.746 of 17 August 2001, R.1032 of 19 October 2001, R.216 of 1 March 2002, R.567 of 23 April 2003, R.1358 of 16 May 2003, R.721 of 29 May 2003, R.963 of 2 July 2003 and R.1342 of 23 September 2003.

## Amendment of regulation ■ of the Regulations

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

"1. In these regulations the expression "the Act" means the Patents Act, 1978, and, unless the context otherwise indicates, an expression used in these regulations to which a meaning has been assigned in the Act shall 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 Trade Marks Act, 1993 (Act 194 of 1993), the Designs Act, 1993 (Act 195 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 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 a 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;

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

'office' means the patent office established under section 5(1) of the Act;

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

'priority document' means a copy of the application and all relevant documents lodged with such application in a convention country certified by the authority with whom the application in the convention country was filed."

### **Insertion of regulation I A in the Regulations**

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

#### **I SERVICES**

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

(2) The Registrar must publish operational requirements on the CIPRO portal setting out the requirements, processes and procedures in respect of all or certain electronic services, including -

- (a) registration procedures;

- (b) identification, authentication and verification;
  - (c) form and format of records;
  - (d) manner and form of payment;
  - (d) information security requirements; and
  - (e) record retention requirements.
- (3) The operational requirements may be published in different forms over different Darts 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 lodged with CIPRO is satisfied by the CIPRO customer entering his access code on the CIPRO system and any record lodged after the CIPRO customer having 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 effect existina rights of any person who has been using such electronic services."

#### **Amendment of regulation 2 of the Regulations**

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

"2. The fees to be paid in terms of the Act shall be the fees specified in Schedule 1 to the Regulations and shall be payable **[as follows:**

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

**(b) by impressing a stamp on any relevant document by means of a die approved by the Secretary of Inland Revenue; or**

**(c)] in such [other] manner as the registrar may direct."**

#### **Amendment of regulation 3 of the Regulations**

5. Regulation 3 is hereby substituted by the following regulation:

"3. 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 apply, but may be modified or amended with the approval of the registrar provided that such modifications or amendments shall not substantially affect their identity."

#### **Amendment of regulation 13 of the Regulations**

6. Regulation 13 is hereby substituted by the following regulation:

"13. All documents shall be so presented as to permit of direct reproduction by photography, [or] reprography or electronic means, as the case may be, in an unlimited number of copies. Where paper forms are used, [All] all

sheets shall be free of cracks, creases and folds. Only **one** side of a sheet shall be used, except where otherwise specified.

#### **Amendment of regulation 14 of the Regulations**

7. Regulation 14 is hereby substituted by the following regulation:

"14. All documents which are not photocopies of other documents shall be on A4 paper which shall be strong, pliable, smooth, matt and durable or in such electronic form as authorized by the reiastrar for electronic services. Each sheet shall be used with its short sides at the top and bottom (except where inappropriate in the case of drawings).

#### **Amendment of regulation 21 of the Regulations**

8. Regulation 21 is hereby substituted by the following regulation:

"21. Drawings shall be on strong, pliable, smooth, matt and durable drawing paper or on strong, pliable, smooth, matt and durable tracing cloth or in such electronic form as authorized by the reiastrar for electronic services and shall be executed without colouring in durable, black, sufficiently dense and dark, uniformly thick and well defined lines and strokes to permit of satisfactory reproduction.

#### **Amendment of forms in Schedule 2 of the Regulations**

9. The forms contained in Schedule 2 are hereby amended by the deletion of the expression "Revenue stamps or revenue franking machine impression" where it appears therein.