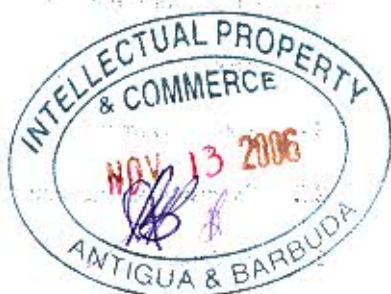


THE INDUSTRIAL DESIGNS REGULATIONS, 2006

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ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

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**THE INDUSTRIAL DESIGN REGULATIONS, 2006 Made in
exercise of the powers contained under section 24 of the
Industrial Designs Act, 2003, Act No. 19 of 2003.**

PART I

PRELIMINARY

1. These Regulations may be cited as the Industrial Designs
Regulations, 2006.

Citation.

2. In these Regulations, unless the context otherwise re-
quires —

Interpretation.

“Act” means the Industrial Designs Act, 2003; and

“published” includes publication on the Internet;

3. The fees to be paid in respect of matters arising under the
Act or these Regulations shall be those specified in Schedule 1.

Fees.

4. (1) The forms referred to in these Regulations are those
set out in Schedule 2.

Forms.

(2) A requirement under these Regulations to use such a form
is satisfied by the use either of a replica of that form or of a form
which is acceptable to the Registrar and contains the informa-
tion required by the corresponding form set out in that Sched-
ule.

(3) Documents required or authorized by the Act or these
Regulations to be sent to the Registrar may be transmitted by
telefacsimile or electronic mail, and the date of application shall
be the date of transmission, provided that the original of the
document so transmitted is filed with the Registrar within one
month of such transmission.

5. Applications shall be in the English language, and any
document forming part of an application or submitted to the
Registrar pursuant to the Act or these Regulations and which is

Language of docu-
ments and trans-
lations.

20. Excluded days
21. Consultation of registers; extracts and copies of documents
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SCHEDULE 1 Fees

SCHEDULE 2 Forms

in a language other than English shall be accompanied by an English translation.

Indication of name, address, nationality and residence.

6. (1) Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s); the names of legal entities shall be indicated by their full, official designations.

(2) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units, including the house number, if any; addresses shall also indicate telephone numbers.

(3) Nationality shall be indicated by the name of the State of which a person is a national; legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.

(4) Residence shall be indicated by the name of the State of which a person is a resident.

Signatures by partnerships, companies and associations.

7. (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the or by any partner qualified to sign, stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document;

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by 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 and shall bear the seal of the body corporate.

(3) A document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he is duly authorized.

(4) The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

Representation by agent.

8. (1) The appointment of an agent shall be by an authorisation of agent which shall be signed by the applicant or, if there are more than one, by each applicant.

(2) The authorisation of agent may be filed together with the application or within two months from its filing date and if the appointment is not thus made and is not in accordance with section 16 of the Act and subregulation (1) any procedural steps taken by the agent, other than the filing of the application, shall be deemed not to have been taken.

(3) A local attorney at law or agent admitted to represent clients before Intellectual Property Office may be appointed as an agent.

(4) An agent who is not a local attorney at law shall apply to the Registrar to be registered as an agent admitted to represent clients before Intellectual Property Office.

9. (1) The application for the registration of an industrial design shall be made on Form No. 1 and shall be signed by each applicant.

Application for registration of an industrial design.

(2) The application shall indicate each applicant's name, address, nationality and residence.

(3) Where the applicant is the creator, the request shall contain a statement to that effect, and, where he is not, it shall indicate each creator's name and address and be accompanied by the statement justifying the applicant's right to the registration of the industrial design.

(4) If the applicant is represented by an agent, the request shall so indicate and state the agent's name and address.

10. (1) The application shall be accompanied by the following—

Number and Size of representations and specimens.

(a) if the industrial design is two-dimensional, by four graphic representations or four drawings or tracings; or

(b) if the industrial design is three-dimensional, by four graphic representations or four drawings or tracings of each of the different sides of the industrial design; and

(2) A specimen shall be of a size not exceeding 20 centimetres x 20 centimetres x 20 centimetres. No graphic representation, draw-

ing or tracing of the industrial design shall exceed 10 centimetres x 20 centimetres. Such representations, drawings or tracings, shall be affixed on four sheets of cardboard of A4 size. Drawings and tracings shall be in black ink.

Declaration of priority and translation of earlier application.

11. (1) The declaration referred to in section 7(1) shall be made at the time of filing the application for the industrial design and shall indicate:

- (a) the date of the earlier application;
- (b) the number of the earlier application, subject to subregulation (2);
- (c) the symbol of the International Classification for Industrial Designs which has been allocated to the earlier application, subject to subregulation (3);
- (d) the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the State or States for which it was filed;
- (e) where the earlier application is a regional or an international application, the Office with which it was filed.

(2) Where at the time of filing the declaration referred to in subregulation (1) the number of the earlier application is not known, that number shall be furnished within three months from the date on which the application containing the declaration was filed.

(3) Where a symbol of the International Classification for Industrial Designs has not been allocated to the earlier application, or had not yet been allocated at the time of filing the declaration referred to in subregulation (1) the applicant shall state this fact in the said declaration and shall communicate such symbol as soon as it has been allocated.

(4) The applicant may, at any time before the registration of the industrial design, amend the contents of the declaration referred to in subregulation (1) hereof.

(5) The period for furnishing the certified copy of the earlier application, referred to in section 7(2), shall be three months from the date of the request by the Controller and...

already been furnished for another application, the applicant may respond by making a reference to that other application.

(6) Where the earlier application is in a language other than English, the applicant shall, within six months from the date of the afore-mentioned request, furnish an English translation of the earlier application.

(7) Unless the Registrar requests otherwise, the earlier application and any translation thereof shall be filed in one copy.

(8) The application fee shall not be refunded if the application is withdrawn.

12. (1) The application may be withdrawn, pursuant to section 6(6) of the Act by written declaration submitted to the Registrar and signed by each applicant.

Withdrawal of application.

(2) The application fee shall not be refunded if the application is withdrawn.

13. (1) Upon receipt, the Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters AI, slant, the letter ID slant, the numbers of the year in which the initial papers were received, slant, and a five-digit number allotted in the sequential order in which applications are received; where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for registration of the industrial design.

Marking Application.

(2) The application number allotted under subregulation (1) shall be quoted in all subsequent communications concerning the application.

14. (1) The Registrar shall examine whether the application fulfils the requirements of section 6(1) of the Act.

According and notifying filing date; examination; decision to grant or refuse under application.

(2) The invitation to file any correction under section 8(2) of the Act shall be in writing and it shall specify the correction or corrections required and request that these be filed within two months from the date of the said invitation, together with the payment of the prescribed fee.

(3) Once the Registrar accords a filing date, he shall so notify the applicant in writing; if the application is treated as if it had not been filed, under section 8(2) of the Act, the Registrar shall notify the applicant in writing, specifying the reasons.

(4) Where the Registrar finds that the conditions set out in sections 3, 4(4) and 6(1) (3) and (7) of the Act and the Regulations pertaining thereto are not fulfilled, he shall invite the applicant, in writing, to file the required correction within two months from the date of the invitation, together with the payment of the prescribed fee; if the applicant does not comply with the invitation to correct a deficiency, or where, despite corrections submitted by the applicant, the Registrar is of the opinion that the said conditions are not fulfilled, he shall reject the application and notify the applicant, in writing, stating the reasons.

(5) Refusal of the application shall not affect its filing date which shall remain valid.

(6) The Registrar shall notify the applicant, in writing, of his decision to grant or to refuse the application, and, in the case of a decision to grant the application, he shall request the applicant to pay the registration and publication fee within one month from the date of the notification.

15. (1) Subject to the payment of the registration and publication fee, the Registrar shall register the industrial design in accordance with section 9(1) of the Act and this regulation.

(2) The Registrar shall allot to each industrial design he registers a number in the sequential order of registration.

(3) The registration of an industrial design shall include a representation of the industrial design and shall specify—

- (a) the number of the industrial design;
- (b) the name and address of the registered owner;
- (c) the name and address of the agent, if any;
- (d) the name and address of the creator, except where he has asked not to be named in the registration;
- (e) if the priority has been claimed, and the claim has been accepted, the priority date and the country or

countries in which or for which the earlier application was filed; and

- (f) the kind of products for which the industrial design is to be used.

(4) The publication of the reference to the registration of an industrial design, under section 9(1) of the Act, shall contain the particulars specified in subregulation (3) hereof.

(5) The certificate of registration of an industrial design shall be issued on Form No. 2.

16. (1) The renewal of the registration of an industrial design under section 11(2) of the Act may be made by the registered owner or his agent during the six month period preceding the expiry of the registration.

(2) The renewal shall be made on Form No. 6 and by payment of the renewal fee within the period specified in subregulation (1) hereof or, upon payment of the renewal fee and prescribed surcharge, within the grace period allowed under section 11(3) of the Act.

(3) The renewal of an industrial design registration shall be recorded in the register and shall be published.

(4) The Registrar shall issue to the registered owner a certificate of renewal which shall contain:

- (a) the registration number of the industrial design;
- (b) the date of renewal and the date of expiry;
- (c) the name and address of the registered owner; and
- (d) an indication of the kind of products for which the industrial design has been registered.

17. (1) The Registrar shall cause to be entered in the register in respect of every Industrial design, in addition to the information indicated in subregulation 15(3),

- (a) the address for service;
- (b) the date on which the industrial design registration expired or was surrendered or invalidated;

Renewal of Registration.

Entries in the register.

Registration of industrial design; publication of reference thereto; issuance of certificate.

Changes in ownership; licence contracts.

- (c) any change in name, or address, or any change in ownership or address for service in accordance with regulations 18 and 19, below;
- (d) the fact that a license contract has been concluded and recorded pursuant to section 15(1) of the Act.

18. (1) The request, under section 14 of the Act, for the recording of a change of ownership of a title granted under the Act or of an application therefor shall be made to the Registrar on Form No. 3 and shall be subject to payment of the prescribed fee.

(2) The publication of the change of ownership shall specify-

- (a) the title of registration concerned;
- (b) the filing date, the priority date, if any, and the date of registration;
- (c) the owner and the new owner; and
- (d) the nature of the change of ownership.

(3) A licence contract submitted for recordal under section 15(1) of the Act shall be accompanied by the prescribed fee.

(4) The file relating to a license contract may be inspected and extracts obtained therefrom only with the written permission of the licensor and licensee.

Address for service.

19. There shall be furnished to the Registrar—

- (a) by every applicant for the registration of an industrial design an address for service in Antigua and Barbuda for the purpose of the application, and
- (b) by every person (including the applicant for, or the owner of, industrial design concerned in any proceedings to which any of these Regulations relate, an address for service in Antigua and Barbuda;

and the address so furnished or, where another address (being an address in Antigua and Barbuda) has been furnished in place thereof, that address shall be treated for the purposes of that application or those proceedings, as appropriate, as the address of that applicant or, as the case may be, of that person.

20. When the last day for doing any act or taking any proceeding falls on a day when the Intellectual Property Office is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the Office is next open for business.

21. Consultation of the registers shall be subject to payment of the prescribed fee; requests for certified copies of extracts from a register or for copies of documents shall be made to the Registrar in writing and shall be subject to payment of the prescribed fee.

22. Corrections of errors, under section 18 of the Act, may be made by the Registrar upon receipt of a request in writing and subject to such terms as he may consider appropriate, or on his own initiative; corrections made shall be communicated in writing to all interested persons, and, where considered necessary, shall be published by the Registrar.

23. (1) Before exercising adversely to any person any discretionary power given to the Registrar by the Act or these Regulations, the Registrar shall notify such person, in writing, of the opportunity to be heard thereon, and indicating a time limit, which shall not be less than one month, for filing a request for a hearing;

(2) The request for a hearing shall be in writing and shall be subject to payment of the prescribed fee; and

(3) Upon receiving such request, the Registrar shall give the person applying, and any other interested persons, at least two weeks' notice, in writing, of the date and time of the hearing.

24. (1) Any notice, application or other document sent to the Registrar by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail and in proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.

(2) Subregulation (1) does not apply to the accordance of the filing date.

Excluded days

Consultation of registers; extracts and copies of documents.

Corrections of errors.

Hearing.

Service by Mail.

Evidence.

25. (1) Where under these Regulations evidence may be filed, it shall be 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.

Extension of time limit.

26. The time or periods prescribed by these Regulations for doing any act or taking any proceeding thereunder, other than the time prescribed in regulation 11(1) above, may be extended by the Registrar if he thinks fit, upon such notice to the parties and upon such terms as he may direct, and such extensions may be granted although the time or period for doing such act or taking such proceeding has already expired.

Directions as to furnishing of documents.

27. At any stage of any proceedings before the Registrar, he may direct that such documents, information or evidence as he may require be furnished within such period of time as he may fix.

Corrections of irregularities.

28. Any irregularity in procedure before the Registrar may be rectified, on such terms as he may direct.

Dispensation by the Registrar.

29. Where, under these Regulations, any person is to do any act or thing, or any document or evidence is required to be produced or filed, and it is shown to the satisfaction of the Registrar that from any reasonable cause that person is unable to do that act or thing, or that that document or evidence cannot be produced or filed, the Registrar may, upon the production of such evidence and subject to such terms as he thinks fit, dispense with the doing of any such act or thing, or the production or filing of such document or evidence.

Statutory declarations and affidavits.

30. (1) Any statutory declaration or affidavit filed under the Act or these Regulations shall be made before any officer authorized by law in any part of Antigua and Barbuda to administer an oath for the purpose of any legal proceedings; and

(2) Statutory declarations or affidavits made outside Antigua and Barbuda shall be made before a Consul or Notary Public.

Administrative Directions.

31. Where no provision is made in the Act or these Regulations in respect of any matter arising in the administration of the

Act, the Registrar may give such directions in respect thereof as he considers necessary in the circumstances.

32. Particulars of industrial designs and other information required to be published under the Act or these Regulations shall be published in accordance with the directions of the Registrar. Publication.

SCHEDULE I (Regulation 3)

FEES

	Matter or Proceeding	Amount (EC\$)	Corresponding Form
1.	Application fee	\$250.00	Form No. 1
2.	Correction of application to comply with requirements for according filing date	\$40.00	
3.	Registration and publication fee	\$100.00 plus publication	
4.	Renewal	\$250.00	
5.	Surcharge for late payment of renewal fee	\$100.00	
6.	Request for recordal of change in ownership	\$150.00	Form No. 3
7.	Submission of license contract for recordal	\$150.00	
8.	Inspection of register	\$25.00	
9.	Certified copies of documents (per page)	\$5.00 per page, \$50.00 to certify	
10.	Request for correction of error	\$40.00	
11.	Request for hearing	\$175.00	
12.	Change of name or address	\$100.00	Form No. 5

