
STATUTORY INSTRUMENTS

1995 No. 2912

The Registered Designs Rules 1995

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Registered Designs Rules 1995 and shall come into force on 4th December 1995.

Interpretation

2. In these Rules, unless the context otherwise requires—

“the Act” means the Registered Designs Act 1949 and “section” means a section of the Act;

“convention application” means an application in the United Kingdom under section 14;

“Journal” means the Official Journal (Patents) published by the Comptroller-General of Patents, Designs and Trade Marks under the Patents Act 1977⁽¹⁾;

“register” means the register of designs kept under section 17;

“specimen” means an article with the design applied to it;

“textile article” means textile and plastics piece goods, handkerchiefs, shawls and such other classes of articles of a similar character as the registrar may from time to time decide, for which the protection required is limited to features of pattern and ornament only;

“United Kingdom” includes the Isle of Man.

Revocation

3. The Registered Designs Rules 1989⁽²⁾ and the Registered Designs (Amendment) Rules 1990⁽³⁾ are hereby revoked.

Forms

4.—(1) The forms mentioned in these Rules are those set out in Schedule 1 to these Rules.

(2) A requirement under these Rules to use a form set out in Schedule 1 to these Rules is satisfied by the use either of a replica of that form or of a form which contains the information required by the form set out in the said Schedule and which is acceptable to the registrar.

⁽¹⁾ 1977 c. 37.

⁽²⁾ S.I.1989/1105.

⁽³⁾ S.I. 1990/1456.

DOCUMENTS

Size and presentation of documents

5. Subject to any directions that may be given by the registrar in any particular case, all applications, notices, papers having representations affixed, and other documents filed under the Act or these Rules shall be upon strong paper and, except where otherwise required, on one side only, of a size approximately 297mm by 210mm or approximately 330mm by 200mm to 210mm and having on the left hand part thereof a margin of approximately 50mm.

Signature of documents

6.—(1) This rule applies to any notice, application or other document required or authorised by the Act or these Rules to be given, made or filed at the Patent Office and such a notice, application or other document is referred to in the following paragraphs of this rule as a “document”.

(2) A document filed by or on behalf of a firm which is concerned in any proceedings to which these Rules relate as principal and not as an agent shall contain the names of all the partners in full and shall be signed by all the partners, by any partner stating that he signs on behalf of the firm (or, in the case of a firm formed under the law of Scotland, by any partner in the firm’s name) or by any other person who satisfies the registrar that he is authorised to sign the document.

(3) A document signed for or on behalf of a body corporate shall be signed by a director or the secretary or other principal officer of the body or by any other person who satisfies the registrar that he is authorised to sign the document.

(4) A document signed for or on behalf of an unincorporated body or association of persons other than a firm may be signed by any person who satisfies the registrar that he is authorised to sign the document.

Service of documents

7. Any notice, application or other document sent to the Patent Office by posting it in the United Kingdom shall be deemed to have been given, made or filed at the time when the letter containing it would be delivered in the ordinary course of post.

ADDRESS

Address for service

8.—(1) There shall be furnished to the registrar—

- (a) by every applicant for the registration of a design, an address for service in the United Kingdom for the purpose of his application; and
- (b) notwithstanding the provisions of paragraphs (2) and (3) below, by every person (including the applicant for registration of a design or the proprietor of a registered design, as the case may be) concerned in any proceedings to which any of these Rules relate, an address for service in the United Kingdom,

and the address so furnished or, where another address (being an address in the United Kingdom) 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.

(2) Upon the registration of a design, the applicant’s address for service shall be treated as the address for service of the proprietor of the registered design unless an alternative address is furnished.

(3) An address for service for an applicant for registration of a design, or a proprietor of a registered design, may be withdrawn by the applicant or the proprietor or an agent or other person providing the address for service, as the case may be, by notice to the registrar; and upon such notification the registrar may treat the address of the applicant or the proprietor previously notified to him, or the address shown in the register, as the address for service until such time as an alternative address is furnished.

Failure to provide address for service

9. Where an address for service in the United Kingdom has not been furnished to the registrar by an applicant in any proceedings to which these Rules relate, the registrar need not proceed with the examination of the application until such an address has been furnished to him.

AGENTS

Appointment of agents

10. Unless the registrar otherwise directs in any particular case, anything required or authorised by these Rules to be done by or in relation to any person may be done by, or in relation to, his agent.

Appointment of agent after start of proceedings

11. Where after a person has become a party to proceedings before the registrar he appoints—
- (a) an agent for the first time, the newly appointed agent shall file Designs Form 1A on or before the first occasion when he acts as agent; or
 - (b) one agent in substitution for another, the newly appointed agent shall file in duplicate Designs Form 1A on or before the first occasion when he acts as agent and the comptroller shall send one copy of the Form to the previously appointed agent.

APPLICATIONS FOR REGISTRATION

Form for applications

12. Applications to register designs shall be made on Designs Form 2A.

Application for same design in respect of more than one article

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

Article to which design is applied

14.—(1) Every application shall state the article to which the design is to be applied and that the applicant claims to be the proprietor of the design in relation to that article.

(2) If any question arises as to whether an article to which a design is to be applied is made substantially of lace or as to whether a design to be applied to a textile article consists substantially of checks or stripes, it shall be decided by the registrar.

Statement of novelty on representations or specimens

15.—(1) Except in the case of an application to register the pattern or ornament of a design to be applied to a textile article, to wallpaper or similar wall covering or to lace or to sets of textile articles or lace, a statement satisfactory to the registrar of the features of the design for which novelty is claimed shall appear on each representation or specimen of the design.

(2) The statement referred to in paragraph (1) above shall appear on the front of the first sheet only of each representation or specimen (except where the registrar is satisfied that this is impracticable in which case it shall appear in a place satisfactory to the registrar) and it shall be separate from any other statement or disclaimer.

Registration of same design in respect of other articles, etc.

16. If the application is for the registration of a design which has already been registered or applied for in respect of one or more articles, or consists of a design already registered or applied for with modifications or variations not sufficient to alter the character or substantially to affect the identity thereof, and it is desired to claim the protection of section 4 for such application, it shall contain the number or numbers of the registration or registrations already effected or the application or applications already made.

REPRESENTATIONS AND SPECIMENS

Supply of representations and specimens

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

Representations and specimens for sets of articles

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

(2) The representations shall show the design as applied to each different article included in the set.

Size and presentation of representations

19.—(1) 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 5 above 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 except where the registrar is satisfied that it is impracticable. When more figures than one are shown, these shall where reasonably practicable 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.

(2) Each sheet shall bear in the top left hand corner the name of the applicant and in the top right hand corner the number of sheets comprising the representation and the consecutive number of each sheet.

Drawings or tracings

20. 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 5 above.

Replacement of specimens by representations

21. 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 5 above and stored without damage to other documents, representations shall be furnished in place of specimens.

Words, letters or numerals

22. In an application where words, letters or numerals appear in the design, the registrar may require that a disclaimer of any right to their exclusive use shall appear on each representation or specimen.

Repeating surface patterns

23. Each representation or specimen 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 180mm by 130mm.

Use of portrait of a member of the Royal Family or armorial bearings, etc.

24. Where a portrait of Her Majesty or of any member of the Royal Family, or a reproduction of the armorial bearings, insignia, orders of chivalry, decorations or flags of any country, city, borough, town, place, society, body corporate, institution or person appears on a design, the registrar, before proceeding to register the design, shall, if he so requires, 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.

Use of portrait of living or recently dead person

25. Where the name or portrait of a living person appears on a design, the registrar shall be furnished, if he so requires, with consent from such person before proceeding to register the design and, 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.

DESIGNS EXCLUDED FROM REGISTRATION UNDER SECTION 1(5)

Exclusion of designs to be applied to certain articles

26. There shall be excluded from registration under the Act designs to be applied to any of the following articles, namely—

- (1) 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;
- (2) wall plaques, medals and medallions;
- (3) printed matter primarily of a literary or artistic character, including book jackets, calendars, certificates, coupons, dress-making patterns, greetings cards, labels, leaflets, maps, plans, playing cards, postcards, stamps, trade advertisements, trade forms and cards, transfers and similar articles.

CONVENTION APPLICATIONS

Declarations

27. An application for registration under section 14 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 14(4) to have been made, and the official date thereof.

Copies and translations

28.—(1) In addition to the representations or specimens filed with every convention application there shall be filed 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 authority with which it was filed or otherwise verified to the satisfaction of the registrar.

(2) If any certificate or other document relating to the application is in a language other than English, a translation thereof into English verified to the satisfaction of the registrar as corresponding to the original text shall be annexed thereto.

PROCEDURE ON RECEIPT OF APPLICATION

Statement of objections by registrar

29.—(1) If upon consideration of the application there appears to the registrar to be any objection to it he shall send to the applicant a statement of the objection in writing, and unless the applicant sends to the registrar, within two months beginning on the date when the statement is sent to him, his observations in writing on the objection, the application shall be deemed to have been withdrawn.

(2) The applicant may request a hearing either—

- (a) when sending his observations to the registrar under paragraph (1) above; or
- (b) at any time thereafter when responding (within the time specified by the registrar) to any communication sent by the registrar in relation to those observations,

and upon such request the registrar shall, if it appears to him that any objection to the application remains, give the applicant at least fourteen days' notice, or such shorter notice as the applicant may consent to accept, of the time and date when he may be heard.

Decision of registrar to be communicated in writing

30. If the applicant applies for a hearing, the decision of the registrar at the hearing shall be communicated to the applicant in writing, together with an indication in general terms of the grounds for that decision.

Appeal from registrar's decision

31. 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, upon Designs Form 7, 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 a statement as aforesaid in writing and

the date when the statement is sent shall be deemed to be the date of the registrar's decision for the purpose of an appeal.

CERTIFICATE OF REGISTRATION

Form of certificate

32. The certificate of registration of a design shall be in the form set out in Schedule 2 to these Rules, provided always that, in the case of a design which is registered under the provisions of section 4 in association with a design which has been previously registered, the certificate shall contain a statement that the design has been registered in association with that previously registered design.

Copy of certificate

33. An application under section 18(2) for a copy of a certificate of registration shall be made in writing, accompanied by the prescribed fee, if any and, where the original certificate has been lost, destroyed or otherwise cannot be produced, shall be accompanied by evidence setting out in full and verifying the circumstances in which the original certificate was lost, destroyed or cannot be produced. An application for a copy of a certificate made for any other reason shall be accompanied by a statement as to why the applicant considers it expedient for a copy to be furnished to him and shall be supported by such evidence as the registrar shall require.

NOVELTY OF DESIGNS

Deemed application date under section 3(4)

- 34.—**(1) For the purpose of deciding whether a design is new the registrar may direct—
- (a) that an application for the registration of a design, which has been amended in such a way that the appearance of the design has been altered significantly, shall be treated as having been made on the date on which it was so amended; or
 - (b) that, where an application for the registration of a design disclosed more than one design and has been amended so as to exclude one or more designs from the application, a subsequent application for the registration of a design so excluded made by the person who made the earlier application or his successor in title shall be treated as having been made on the date on which the earlier application was made or is treated as having been made, provided always that the later application is filed before the end of the period provided by rule 36 below for the completion of the earlier application (including any extension of time allowed under the said rule 36) or the date on which the certificate of registration of the design which is the subject of the earlier application (as amended) is granted, whichever is the earlier.

(2) Nothing in paragraph (1)(a) of this rule shall be taken to limit the discretion of the registrar to decline to accept an amendment of an application for the registration of a design.

Industrial application of designs

35. A design shall be regarded for the purposes of section 6 as “applied industrially” if it is applied—

- (a) to more than fifty articles which do not all together constitute a single set of articles as defined in section 44(1); or
- (b) to goods manufactured in lengths or pieces, not being hand-made goods.

NON-COMPLETION

Time limits

36. The time prescribed for the purposes of section 3(6), which relates to non-completion of an application, shall be twelve months from the date of the application, and for those purposes the time prescribed for a subsequent application for the registration of a design excluded from an earlier application (as is referred to in rule 34 above) shall be twelve months from the date of the earlier application.

Provided that the application or the subsequent application for a design so excluded may be completed at any time after twelve months but within fifteen months of the date aforesaid, if a request for an extension of time is made on Designs Form 8 accompanied by the prescribed fee.

DEATH OF APPLICANT

Substitution

37. In the 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 and address of such deceased applicant, the name and address of the person owning the design, on such ownership being proved to the satisfaction of the registrar.

EXTENSION OF DURATION OF RIGHT IN REGISTERED DESIGN

Extension for further periods of five years

38.—(1) An application for extension of the period for which the right in a registered design subsists for a further period of five years shall be made on Designs Form 9A not more than three months before the expiry of the period of five years immediately preceding that further period.

(2) On receipt of the prescribed extension fee accompanied by Designs Form 9A, duly completed, the registrar shall issue a certificate of extension of the period for which the right in the registered design subsists.

Notice of expiry of the right in a registered design

39.—(1) Where the right in a registered design has expired under section 8(3), the registrar shall, not later than six weeks after the date on which the right expired (and if an application for extension of the period for which the right subsists has still not been received by the registrar), send to the registered proprietor of the design a notice of that fact.

(2) This rule does not apply to the right in a design registered in pursuance of an application made before 1st August 1989.

Late extensions

40. An application for extension of the period for which the right in a registered design subsists for a further period of five years made during the period of six months immediately following the end of a five year period shall be made on Designs Form 9A.

Restoration of lapsed right in a design under section 8A

41.—(1) An application under section 8A may be made within twelve months from the date on which the right in the registered design expired.

(2) Any such application shall be made on Designs Form 29 and shall be supported by evidence in support of the statements made in that application.

(3) The registrar shall enter in the register notice of the application and shall publish such notice in the Journal.

(4) If, upon consideration of the evidence, the registrar is not satisfied that a case for an order under section 8A has been made out, he shall notify the applicant accordingly and, unless within two months the applicant requests to be heard in the matter, the registrar shall refuse the application.

(5) If the applicant requests a hearing within the time allowed, the registrar shall, after giving the applicant an opportunity of being heard, determine whether the application shall be allowed or refused.

(6) If the registrar decides to allow the application, he shall notify the applicant accordingly and require him to file Designs Form 30, together with Designs Form 9A, duly completed, and the amount of the unpaid extension fee and the prescribed restoration fee, upon receipt of which the registrar shall order the restoration of the right in the design and advertise the fact in the Journal.

(7) If the registrar decides to refuse the application he shall notify the applicant accordingly giving written reasons for his decision if so required by the applicant.

(8) This rule does not apply to the right in a design registered in pursuance of an application made before 1st August 1989.

REGISTRATION OF ASSIGNMENTS, ETC

Procedure for application for registration

42.—(1) An application under section 19(1) or (2) 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 on Designs Form 12A.

(2) An application under paragraph (1) above shall—

(a) where it relates to an assignment as mentioned in section 19(1) or (2), be signed by or on behalf of the parties thereto;

(b) where it relates to a mortgage or the granting of a licence as mentioned in section 19(1) or (2), be signed by or on behalf of the mortgagor or the grantor of the licence, as the case may be;

or be accompanied by such documentary evidence as suffices to establish the assignment, transmission or operation of law.

(3) The registrar may direct that such evidence as he may require in connection with the application should be furnished within such period as he may specify.

Other transaction, event or document

43. Application may be made in writing for entry in the register of notification of any transaction, event or document other than those referred to in rule 42 purporting to affect the proprietorship of, or any interest in, a registered design. The registrar may direct that such evidence as he may require in connection with the application should be furnished within such period as he may specify.

Particulars to be provided

44. An application under rule 42(1) above shall contain the name and address of the person claiming or stated to be entitled together with full particulars of the transaction, event or document under which title is claimed or given.

Cancellation of claim to be mortgagee or licensee

45. Where the name of a person is entered in the register as mortgagee or licensee, such person may on making an application on Designs Form 12A have a note entered in the register that he no longer claims to be mortgagee or licensee, as the case may be. The registrar may direct that such evidence as he may require in connection with the application should be furnished within such period as he may specify.

Alteration of name or address

46.—(1) A request by any person upon the alteration of his name for that alteration to be entered in the register or on any application or other document filed at the Patent Office shall be made on Designs Form 16A.

(2) Before acting on a request to alter a name, the registrar may require such proof of the alteration as he thinks fit.

(3) A request by any person for the alteration or correction of his address or address for service entered in the register or on any application or other document filed at the Patent Office shall be made in writing and shall identify the entry in the register or the application or other document to which the request relates.

(4) Where any person files a form under these Rules and on that form he specifies as his address or address for service an address which differs from the address or address for service (as the case may be) which he has previously furnished to the registrar, he shall be deemed, in relation to the design to which the form relates, to have made a request in writing under paragraph (3) above in respect of any address or address for service of his (as the case may be) entered in the register and on any application or other document filed at the Patent Office.

(5) If the registrar is satisfied that the request to alter a name, address or address for service may be allowed, he shall cause the register, application or other document to be altered accordingly.

CORRECTION OF ERRORS

Request for correction

47. Where a person interested desires, under the provisions of section 21, to correct an error, he shall make his request on Designs Form 16A (unless the error relates to his address or address for service).

DISCRETIONARY POWER

Exercise of discretionary powers of registrar

48.—(1) Without prejudice to any provision of the Act or these Rules requiring the registrar to hear any party to proceedings under the Act, or to give any such party an opportunity to be heard, the registrar shall, before exercising any discretion vested in him by or under the Act adversely to any party to a proceeding before him, give that party an opportunity to be heard.

(2) The registrar shall give that party at least fourteen days' notice of the time and date when he may be heard unless that party consents to shorter notice.

DISPENSATION BY REGISTRAR

Registrar's power to dispense from Rules

49. Where under these Rules any person is required 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 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 that document or evidence.

AMENDMENTS

Registrar's power to allow amendments and rectify irregularities in procedure

50. 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.

EXTENSION OF TIME

Registrar's power to extend times prescribed by Rules

51. The times or periods prescribed by these Rules for doing any act or taking any proceeding thereunder, other than the period prescribed in rule 41(1) above, may be extended by the registrar if he thinks fit, upon such notice and upon such terms as he may direct, and such extension may be granted although the time or period for doing such act or taking such proceeding has already expired.

APPLICATIONS FOR COMPULSORY LICENCE UNDER SECTION 10 OR CANCELLATION OF REGISTRATION OF DESIGN UNDER SECTION 11(2) OR (3)

Procedure for application

52.—(1) An application for the grant of a compulsory licence under section 10 or for the cancellation of the registration of a design under section 11(2) or (3) shall be made on Designs Form 19A. Such application shall be accompanied by a copy thereof and a statement in duplicate setting out fully the nature of the applicant's interest and the facts upon which he relies.

(2) A copy of the application and the statement of case shall be sent by the registrar to the registered proprietor.

Opposition by registered proprietor

53. If the registered proprietor desires to oppose the application he shall, within such time as the registrar may allow, file a counter-statement fully setting out the grounds on which the application is to be opposed and shall send to the applicant a copy thereof.

Evidence of applicant

54. The applicant may, within such time as the registrar may allow after receipt of the counter-statement, file evidence in support of his case and shall send to the registered proprietor a copy of any evidence so filed.

Evidence of registered proprietor and evidence in reply

55.—(1) Within such time as the registrar may allow, the registered proprietor may file evidence in support of his case and shall send to the applicant a copy thereof.

(2) Following receipt of the copy from the registered proprietor and within such time as the registrar may allow, the applicant may file evidence confined to matters strictly in reply and shall send to the registered proprietor a copy thereof.

Prohibition on further evidence

56. No further evidence shall be filed by either party except by leave or direction of the registrar.

Procedure for hearing

57.—(1) On completion of the evidence, if any, or at such other time as he may see fit, the registrar shall appoint a time and date for the hearing of the case, and shall give the parties at least fourteen days' notice thereof.

(2) If either party desires to be heard he shall give notice in writing of that fact to the registrar and the registrar may refuse to hear a party who has not given him such notice prior to the date of the hearing.

(3) The hearing before the registrar of any dispute between two or more parties relating to any matter in connection with a registered design shall be in public unless the registrar, after consultation with those parties to the dispute who appear in person or are represented at the hearing, otherwise directs.

(4) Nothing in this rule shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending a hearing in his capacity as such.

CANCELLATION UNDER SECTION 11(1)

Request for cancellation

58. Where the registered proprietor of a design desires to cancel his registration, he shall request such cancellation on Designs Form 19A.

LICENCES OF RIGHT

Application to settle terms of licence of right

59.—(1) An application to settle the terms of a licence under section 11A(4) of the Act or section 266(2) of the Copyright, Designs and Patents Act 1988 shall be made on Designs Form 19A and shall be accompanied by a copy thereof and a statement in duplicate setting out the terms of the licence which the applicant requires the registrar to settle.

(2) Within fourteen days of the receipt of Designs Form 19A the registrar shall send a copy of it, together with a copy of the applicant's statement, to the registered proprietor.

(3) The registered proprietor shall, if he does not agree to the terms of the licence set out in the applicant's statement, within six weeks of the receipt of the copies referred to in paragraph (2) above serve a notice of objection on the registrar with a statement setting out the grounds of his objection and at the same time shall serve a copy of the same on the applicant.

(4) Within four weeks of the receipt of the notice of objection the applicant may serve on the registrar a counter-statement, and at the same time shall serve a copy of the same on the registered proprietor.

(5) No amended statement or further statement shall be served by either party except by leave or direction of the registrar.

(6) The registrar may give such directions as he may think fit with regard to the subsequent procedure.

COSTS

Costs of proceedings

60.—(1) The registrar may, in any proceedings before him under the Act, by order award to any party such costs as he may consider reasonable, and direct how and by what parties they are to be paid.

(2) In the event of an application for the grant of a compulsory licence or for the cancellation of the registration of a design being uncontested by the registered 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.

Security for costs

61.—(1) If a person neither resides nor carries on business in the United Kingdom or another member State of the European Community, the registrar may require him to give security for the costs of any application or appeal falling within section 30(3).

(2) In default of such security being given, the registrar, in the case of an application, or the Appeal Tribunal, in the case of an appeal, may treat the application or appeal as abandoned.

EVIDENCE BEFORE REGISTRAR

Evidence

62.—(1) Where under these Rules 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 statutory declaration, affidavit or oral evidence, unless he directs otherwise.

(3) The registrar shall in relation to the examination of witnesses on oath and the discovery and production of documents have all the powers of an official referee of the Supreme Court.

(4) The rules applicable to the attendance of witnesses before such a referee shall apply in relation to the attendance of witnesses in proceedings before the registrar.

Form and content of statutory declaration or affidavit

63.—(1) The statutory declarations 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 written, typed, lithographed or printed.

Making and subscription of statutory declaration or affidavit

64.—(1) Any statutory declaration or affidavit filed under the Act or these Rules shall be made and subscribed as follows—

- (a) in the United Kingdom, before any justice of the peace or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceedings;
- (b) in any other part of Her Majesty's dominions or in the Republic of Ireland, before any court, judge, justice of the peace or any officer authorised by law to administer an oath there for the purpose of any legal proceedings; and
- (c) elsewhere, before a British Minister, or person exercising the functions of a British Minister, or a Consul, Vice-Consul or other person exercising the functions of a British Consul or before a notary public, judge or magistrate.

(2) Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorised by paragraph (1) above to take a declaration 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.

Registrar's power to require documents, information or evidence

65. At any stage of any proceedings before the registrar, he may direct that such documents, information or evidence as he may require shall be filed within such period as he may specify.

ADVISERS

Registrar's power to appoint advisers

66. The registrar may appoint an adviser to assist him in any proceedings before the registrar and shall settle the question or instructions to be submitted or given to such adviser.

INSPECTION OF REGISTER AND DOCUMENTS

Inspection by public

67. The register (or the material on the register) and the material available for inspection pursuant to section 22 shall be made available for inspection by the public on payment of the prescribed fee between the hours of ten a.m. and four p.m. on weekdays, other than Saturdays and days which are specified as excluded days for the purposes of section 39.

Direction by registrar under section 5(1)

68. Where the registrar has given a direction under section 5(1) prohibiting or restricting the publication of information with respect to a design, the representation or specimen of the design and any such evidence as is mentioned in section 5(2)(b) shall not be open to public inspection while such direction remains in force.

Prohibition on inspection under section 22(2)

69. The period prescribed under section 22(2) during which a design shall not be open to inspection except as provided in that section shall be three years as regards designs to be applied to textile articles, and two years as regards designs to be applied to wallpaper and similar wall covering and lace.

SEARCHES

Procedure when registration number known

70. Where any person desires to obtain the information which he is entitled to obtain under section 23 and can furnish the registration number of the design, he shall make his request in writing accompanied by the prescribed fee, if any, and the registrar shall thereafter furnish him with the information aforesaid.

Procedure when registration number unknown or general search

71. The registrar shall, upon a request for the purpose made on Designs Form 21, accompanied by a representation or specimen (in duplicate) of the design applied to an article, cause such search as may be reasonably practicable to be made among registered designs and state whether the design as applied to that article appears to be identical with, or closely to resemble, any registered design applied to that or any other article, and shall furnish such information as can properly be given.

CERTIFICATES AND COPIES SUPPLIED BY REGISTRAR

Certificates supplied by registrar

72. Upon request made on Designs Form 23 and payment of the appropriate fee—
- (a) the registrar shall supply a certified copy of an entry in the register or a certified extract from the register; and
 - (b) the registrar may supply—
 - (i) a certified copy of any representation, specimen or document kept in the Patent Office or a certified extract from any such document; or
 - (ii) a certificate for the purposes of section 17(9).

Copies supplied by registrar

73. Upon request and payment of the appropriate fee—
- (a) the registrar shall supply an uncertified copy of an entry in the register or an uncertified extract from the register; and
 - (b) the registrar may supply an uncertified copy of any representation or document kept in the Patent Office or an uncertified extract from any such document.

HOURS OF BUSINESS AND EXCLUDED DAYS

Hours of business

74. The Patent Office shall be deemed to be closed at the following hours for the transaction of business of the classes specified—

- (a) on weekdays, other than Saturdays, at midnight for the filing of applications, forms and other documents, and at four p.m. for all other business,
- (b) on Saturdays, at one p.m. for the filing of new applications for the registration of designs which are not convention applications.

Excluded days

75.—(1) The following shall be excluded days for all purposes under the Act:

- (a) all Sundays;
- (b) Good Friday and Christmas Day;
- (c) any day specified as or proclaimed to be a bank holiday in England in or under section 1 of the Banking and Financial Dealings Act 1971(4);
- (d) any Saturday immediately preceded by a day falling within sub-paragraph (b) or (c) above.

(2) Saturdays not falling within paragraph (1) above shall be excluded days for all purposes except the filing of new applications for the registration of designs which are not convention applications.

Calculation of times or periods

76.—(1) Where, on any day, there is—

- (a) a general interruption or subsequent dislocation in the postal services of the United Kingdom, or
- (b) an event or circumstances causing an interruption in the normal operation of the Patent Office,

the registrar may certify the day as being one on which there is an “interruption” and, where any period of time specified in the Act or these Rules for the giving, making or filing of any notice, application or other document expires on a day so certified the period shall be extended to the first day next following (not being an excluded day) which is not so certified.

(2) Any certificate of the registrar given pursuant to this rule shall be posted in the Patent Office.

(3) Where in connection with an application for the registration of a design the period of time referred to in rule 34(1)(b) above or the period of six months after the opening of an exhibition referred to in section 6(2) ends on a day which is certified by the registrar for the purposes of paragraph (1) above or which is an excluded day for the purposes of section 39, the application shall be treated as having been made within the relevant period if it is made on the first following day which is neither so certified nor an excluded day.

(4) If in any particular case the registrar is satisfied that the failure to give, make or file any notice, application or other document within—

- (a) any period of time specified in the Act or these Rules for such giving, making or filing,
- (b) the period of six months specified in section 6(2) or 14(1), or
- (c) the period of time referred to in rule 34(1)(b) above,

was wholly or mainly attributable to a failure or undue delay in the postal services in the United Kingdom, the registrar may, if he thinks fit—

- (i) in the case of a period of time falling within sub-paragraph (a) above, extend the period so that it ends on the day of the receipt by the addressee of the notice, application or other document (or, if the day of such receipt is an excluded day, on the first following day which is not an excluded day), or
- (ii) in the case of the said periods of six months or the period of time referred to in rule 34(1)(b) above, determine that the application shall be treated as having been made within the relevant period,

in each case upon such notice to other parties and upon such terms as he may direct.

ORDERS OF THE COURT

Service of application on registrar

77. Where application to the court under section 20 for rectification of the register has been made, the applicant shall forthwith serve an office copy of the application on the registrar, who shall enter a notice of the application in the register.

Filing of order with registrar

78. 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 file 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.

13th November 1995

Ian Taylor,
Parliamentary Under-Secretary of State for
Science and Technology,
Department of Trade and Industry