

Executive Rules under the Uniform Benelux Designs Laws*

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Chapter I Benelux Deposit

Article 1

1. The Benelux deposit of a design shall be effected in Dutch or French by the submission of a document containing:

- (a) the name and address of the depositor;
- (b) a photographic or graphic representation or representations of the appearance of the product;
- (c) a statement of the product in which the design is to be embodied;
- (d) a statement of the color or colors where the depositor claims protection for them;
- (e) the signature of the depositor or of his representative.

2. The document may also contain:

- (a) a description of not more than 150 words of the characteristic features of the new appearance of the product. Where colors are claimed, the depositor may also state in the description those parts of the design to which the colors relate;
- (b) the name of the true creator of the design;
- (c) a request for deferred publication of the registration as provided for in Article 6.

3. The depositor shall be required to use a form of which the model and the number of copies shall be laid down in the Administrative Regulations.

4. Where appropriate, the name and address of the representative or the service address referred to in Article 16.3 shall be stated on the form.

5. The representation of the design shall satisfy the requirements of the Administrative Regulations.

6. The product in which the design is or is to be embodied shall be designated in precise terms, preferably those of the alphabetical list of the International Classification referred to in the Locarno Agreement Establishing an International Classification for Industrial Designs of October 8, 1968.

* *French title:* Règlement d'exécution de la Loi Uniforme Benelux en Matière de Dessins ou Modèles.

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Note: For the Benelux Designs Convention/Uniform Benelux Designs Law and the Administrative Regulations thereunder, see Industrial Property Laws and Treaties, MULTILATERAL TREATIES - Texts 4-003 and 4-005, respectively.

** Added by WIPO.

Article 2

1. The deposit shall be accompanied by the following documents:

- (a) the means of reproduction used for the representation of the design. A photographic representation, as provided for in Article 1.1(b), shall be assimilated to a means of reproduction;
- (b) the powers of attorney, where the deposit has been made by a representative;
- (c) the representations of the design as required by the Administrative Regulations;
- (d) proof of payment of the deposit fee, the publication fee and, where appropriate, the deferment fee referred to in Article 26.1(a), (b) or (c).

2. The means of reproduction referred to in the above paragraph shall satisfy the requirements of the Administrative Regulations.

Article 3

A single Benelux deposit may contain more than one design, up to a maximum of 50. In such cases, the provisions of Article 1.1(b), (c) and (d), Article 1.2, .5 and .6 and Article 2.1(a) and (c) shall apply to each design. Each design shall further bear a separate number shown on both the means of reproduction referred to in Article 2.1(a) and the representations referred to in Article 2.1 (c). The depositor of a multiple deposit shall be required to use a form of which the model and the number of copies shall be laid down in the Administrative Regulations.

Article 4

1. The date of the deposit shall be the date of receipt, either by the Benelux Office or by a national office, of all documents on condition that they satisfy the requirements of Articles 1, 2, 3, 15 and 16.

2. Where those provisions are not complied with on deposit, the authority with which the deposit has been effected shall notify the person concerned thereof without delay and set a time limit for complying therewith or for submitting any observations. Such time limit may be extended on request or ex officio but may not exceed four months as from the date of dispatch of the first notification. The request for legalization referred to in Article 15.4 shall be assimilated to such notification.

3. Where the requirements of the Articles referred to in paragraph 1 are not met within the set time limit, the documents received shall be filed without processing and any fees received shall be refunded, less one quarter. In the case of multiple deposits, this provision shall apply only to those designs that have not been regularized.

However, if the depositor has solely failed to comply with the provisions of Article 1.2(a) or has not paid the fee referred to in Article 26.1(a)3 or the fee referred to in Article 26.1(b)6, the deposit shall be processed as if the possibility provided for in Article 1.2(a) had not been used.

4. In the case referred to in paragraph 2, the date of deposit shall be that of receipt of the documents referred to in Article 1.1 and Article 2.1(d) as regards the deposit fees and the means of reproduction referred to in Article 2.1(a), on condition, however, that the other requirements of Articles 1, 2, 3, 15 and 16 have been met within the set time limits.

Article 5

1. Where the priority right referred to in Article 4 of the Paris Convention for the Protection of Industrial Property is claimed on deposit, the country, date, number and owner of the deposit on which the priority right relies shall be stated. Where the depositor in the country of origin is not the same as the person who effects the Benelux deposit, the latter must attach to his deposit a document proving his entitlement.

2. The special declaration of priority right referred to in Article 8.4 of the Uniform Law shall include the name and address of the depositor, his signature or that of his representative, where appropriate, the name and address of the representative or the service address referred to in Article 16.3, a reference to the design, together with the particulars referred to in paragraph 1. Proof of payment of the fee referred to in Article 26.1(f) shall be attached.

3. A depositor who claims priority right shall be required to submit a certified copy of the documents proving such right.

4. Where the requirements of paragraphs 1, 2 and 3 and those of Articles 15 and 16 are not met, the competent authority shall notify the person concerned thereof without delay and shall set a time limit for complying therewith. Such time limit may be extended on request but may not exceed four months as from the date of dispatch of the notification. The request for legalization referred to in Article 15.4 shall be assimilated to such notification.

5. If the requirements of paragraphs 1, 2 and 3 and of Articles 15 and 16 are not met within such time limit, the priority right shall lapse.

Article 6

1. A depositor who wishes to defer publication of the registration shall submit a request at the time of deposit, stating the period for which deferment is requested and providing proof of payment of the fee referred to in Article 26.1(c).

2. Deferment of publication of the registration of a multiple deposit may only be requested for all designs together and for the same period.

3. If a depositor who has requested deferred publication of the registration of a multiple deposit notifies the Benelux Office at the end of the period of deferment that he wishes publication of a part of the designs only, he shall state the numbers of the designs of which he wishes publication.

4. If the depositor informs the Benelux Office two months at the latest before expiry of the period of deferment that he does not wish the registration of the design to be published or, in the case of a multiple deposit, one or more of the designs to be published, the publication fee shall be refunded to him in whole or in part.

5. The depositor may at any time request that the period of deferment be terminated.

Article 7

The period referred to in Article 9.4 of the Uniform Law, during which the depositor may request the Benelux Office for a second publication of a design, shall be three months as from the date of first publication.

Article 8

The competent authority shall record in the instrument of deposit:

- (a) the particulars referred to in Article 1 and, where appropriate, the claim to priority right together with the particulars referred to in Article 5.1;
- (b) submission of the documents referred to in Article 2;
- (c) the amount of the fees;
- (d) where appropriate, the fact that publication of the registration has been deferred at the request of the depositor;
- (e) the date and number of the deposit.

Chapter II Registration

Article 9

1. The Benelux Office shall enter the instrument of deposit in the Register of Benelux Deposits with the following particulars:

- (a) the serial number of the registration;
- (b) the date and number of the deposit;
- (c) the particulars referred to in Article 1 and, where appropriate, the claim to priority right and the particulars referred to in Article 6.1 together with the fact that publication of the registration has been deferred;
- (d) the date on which the registration expires;

- (e) the number of the class and subclass of the International Classification established by the above-mentioned Locarno Agreement in which has been classified the product in which the design is or is to be embodied.

2. Where a priority right has been claimed under Article 5.2, the Benelux Office shall enter such claim in the Register of Benelux Deposits and shall enter the country, the date, the number and the owner of the deposit on which the claimed priority right is based.

Article 10

A registration certificate, containing the particulars referred to in Article 9, shall be sent by the Benelux Office to the owner without delay.

Article 11

1. Modifications to the situation of the design after registration of the instrument of deposit shall be entered in the Register of Benelux Deposits at the request of the owner. However, in the case referred to in the third subparagraph of Article 18.1 of the Uniform Law, the owner may only act jointly with the licensee.

2. Any request for modifications to the Register of Benelux Deposits shall be addressed to the Benelux Office and shall contain the registration number, the name and address of the owner of the design, his signature or that of his representative and, where appropriate, the name and address of the representative or the service address referred to in Article 16.3. If so required by the Benelux Office, the request shall be accompanied by documentary evidence.

If such request in respect of a multiple deposit does not concern all the designs, the numbers of the designs concerned shall be stated.

Where an assignment or transfer concerns the exclusive right in one or more designs contained in a multiple deposit, such part shall thereafter be deemed an independent deposit.

3. The extract from the instrument attesting to an assignment, other transfer or a license, referred to in Article 13.3 of the Uniform Law, shall be duly certified, where appropriate, by the contracting parties.

4. Cancellation of a registration following a final court decision shall be effected at the request of the earliest petitioner.

Chapter III Renewal

Article 12

Renewal of a registration shall be effected by simple payment to the Benelux Office of the fee referred to in Article 26.1(d) or (e). However, where the owner of a multiple deposit wishes to avail himself of the possibility provided in Article 12.3 of the Uniform Law, he should state the numbers of the designs in respect of which he wishes the registration to be renewed.

Article 13

1. The Benelux Office shall enter renewals in the Register of Benelux Deposits, stating the date of renewal and the date on which the registration expires.

2. A renewal certificate shall be issued without delay to the owner by the Benelux Office.

Chapter IV International Deposit

Article 14

1. In the case of international deposits for which the depositors have requested that they should have effect on the Benelux territory, the Benelux Office shall record in the Register of International Deposits the

publications and notifications from the International Bureau for the Protection of Industrial Property referred to in Articles 9 and 20 of the Uniform Law.

2. In addition, decisions on cancellation or expiry and licenses shall be entered in the Register where they concern the Benelux territory.

3. Registration of the acts referred to in paragraph 2 shall be in compliance with Article 11.

Chapter V

Administrative Provisions

Article 15

1. All documents submitted to the Benelux Office or to the national offices shall be legible and drawn up in Dutch or French. However, documents proving a priority right, a change of name, extracts from instruments recording assignment, other transfer or a license or relevant declarations drawn up in another language shall be accepted if accompanied by a translation in Dutch or French. However, the Benelux Office may waive the requirement to supply such a translation if the above-mentioned documents are submitted in English or German or are accompanied by a translation in one of those languages.

2. The documents to be submitted to the Benelux Office or to the national offices may be communicated by telegraph, telex, or other similar means of communication by which printed or handwritten documents may be reproduced. A document reproduced in this manner shall be deemed to have been notified in compliance with the requirements of these Rules on the day of its transmission by one of the above-mentioned means if its contents are notified, in compliance with those same requirements, before the expiry of 14 days as from the above-mentioned transmission; failing that, the document shall be deemed not to have been notified.

3. Where a document submitted for entry in the registers kept by the Benelux Office is signed on behalf of a legal person, the name and capacity of the signatory shall be stated.

4. No legalization is required for the signature of documents submitted for entry, except where the Benelux Office or a national office deems necessary.

Article 16

1. All transactions with the Benelux Office or a national office may be effected through a representative. Such representative must have his place of residence or headquarters on the Benelux territory and must submit powers of attorney. Where general powers of attorney have been filed with the Benelux Office or with a national office, it shall suffice to make reference to such powers.

2. In those cases where a representative has been appointed, all communications concerning transactions covered by the powers shall be addressed to him.

3. Persons who have neither headquarters nor a place of residence on the Benelux territory and who have not appointed a representative shall state a service address in those cases stipulated by these Rules.

Article 17

1. Where the requirements of these Rules relating to a request for amendments to the registers kept by the Benelux Office or if the due fees and remuneration have not been paid, or not fully paid, the Benelux Office shall inform the person concerned thereof without delay and shall give him a time limit for compliance.

2. Where the requirements referred to in paragraph 1 are not met within the stipulated time limit, the documents received shall be filed without processing and the fees and remuneration received shall be refunded, less one quarter.

Article 18

The special declaration on maintenance of copyright referred to in Article 21.3 of the Uniform Law shall be filed with the Benelux Office and shall contain the name and address of the owner, his signature or

that of his representative, where appropriate, the name and address of the representative or the service address referred to in Article 16.3 together with the registration number.

Article 19

1. The request for registration of the claim action referred to in Article 5.1 of the Uniform Law shall contain the name and address of the petitioner, his signature or that of his representative and, where appropriate, the name and address of the representative or the service address referred to in Article 16.3, together with the name and address of the owner of the deposit and the registration number of the Benelux or international instrument of deposit of the design.

2. The registration of the claim action referred to in Article 5.1 of the Uniform Law shall be cancelled at the request of the earliest petitioner where the latter files either a final court decision showing that the claim has been rejected or a document proving that the action has been withdrawn.

Article 20

1. The responsible authority shall confirm receipt of any document, whether submitted directly or by post, intended for entry in the registers kept by the Benelux Office.

2. On receipt by the responsible authority, each document shall be dated by means of a stamp comprising the hour, day, month and year of receipt.

3. The documents that arrive after closing time shall be deemed, failing proof to the contrary, to have been received at midnight of that same day and shall bear the stamp of that hour.

Article 21

1. The time limits laid down by these Rules and expressed in months shall begin with the day on which the relevant event took place and shall expire, within the month concerned, on the day of which the date corresponds with the day on which the period of the time limit starts; however, where the month concerned does not have a corresponding day, the time limit shall expire on the last day of that month.

2. Where the service of the responsible authority is closed on the last day of a time limit laid down in the Uniform Law or in these Rules, the time limit shall be extended to the end of the first day of opening of such service.

3. Where normal postal distribution is disturbed in a Benelux country during at least one of the five working days preceding expiry of the time limit referred to in Articles 4.2, 5.4, 15.2 and 17.1, the documents received by the responsible authority after expiry of the time limits laid down in the above-mentioned Articles may be dealt with by that authority as if they had been submitted within the time limits, on condition that it may be reasonably assumed that the disturbance in the normal postal distribution was the reason for which the documents were received after the expiry of the above-mentioned time limits.

4. As regards the acts affecting the date of the Benelux deposit, the Benelux Office and the services of the national offices shall be open on the same days and at the same times.

Article 22

1. On the basis of its registers, the Benelux Office shall provide to those concerned information, copies and attestations, on payment of the remuneration laid down in Article 26. The national offices, acting in the name and on behalf of the Benelux Office, shall supply the same information, copies and attestations where available.

2. The priority documents referred to in Article 4D(3) of the Paris Convention shall be issued to those concerned by the Benelux Office or, where appropriate, by the national offices on payment of the fee laid down in Article 26.4(d).

Such document can only be issued if the deposit meets the requirements of Articles 1.1 and 2.1(d) as regards the deposit fees.

Article 23

The Benelux Office and the national offices shall make available to those concerned the forms referred to in these Rules.

Article 24

1. The Benelux Office shall keep a Register of Benelux Deposits and a Register of International Deposits.

2. The Registers, together with the documents submitted as proof of the recorded entries, may be consulted free of charge at the Benelux Office as from the date of publication of the registrations.

3. The Registers may likewise be consulted free of charge at the Belgian and Luxembourg national offices.

Article 25

1. The publication referred to in Article 20 of the Uniform Law shall have the title *Recueil des Dessins ou Modèles Benelux–Benelux-Tekeningen- of Modellenblad*.

2. This publication shall contain, in the language of registration only;

- (a) all particulars recorded in relation to Benelux deposits, as referred to in Articles 9 and 11; where a registration is renewed, only the registration number and the expiry date of the registration shall be published. In the event of limited renewal of the registration of a multiple deposit, publication of the renewal shall mention the numbers of the designs that have been maintained;
- (b) all particulars recorded in relation to international deposits, as referred to in Article 14.2;
- (c) registration of the declaration referred to in Article 18;
- (d) registration of the claim action referred to in Article 19.

Chapter VI Fees and Remuneration

Article 26

1. The fees for Benelux deposits, as regards the various transactions mentioned below, are fixed as follows:

- (a) deposit of one design (single deposit):
 - 1. a deposit fee of F3,220 or f175;
 - 2. a design publication fee of F313 or f17 for each standard space to be determined in the Regulations. A standard space may not contain more than two representations of the same design;
 - 3. a publication fee for the description of the characteristic elements of the new appearance of the product of F1,620 or f88;
- (b) deposit of more than one design (multiple deposit):
 - 1. a deposit fee of F3,220 or f175 for the first design;
 - 2. a deposit fee of F1,601 or f87 per design from the second to the tenth design inclusive;
 - 3. a deposit fee of F810 or f44 per design from the eleventh to the twentieth design inclusive;
 - 4. a deposit fee of F644 or f35 per design for any subsequent designs;
 - 5. a publication fee for designs of F313 or f17 per standard space to be determined by the Regulations. A standard space may not contain more than two representations of the same design or of differing designs comprised in the same deposit;
 - 6. a fee for the publication of the description of the characteristic elements of the new appearance of the product of F1,620 or f88 per design;
- (c) the deferred publication fee: F1,601 or f87;
- (d) the renewal fee for a single deposit: F3,846 or f209;
- (e) the renewal fee for a multiple deposit:
 - 1. F3,846 or f209 for the first design;
 - 2. F1,932 or f105 per design from the second to the tenth design inclusive;

3. F975 or *f*53 per design from the eleventh to the twentieth design inclusive;
 4. F810 or *f*44 per design for any subsequent designs;
 - (*f*) the registration fee for the special declaration referred to in Article 5.2 in respect of the priority right: F488 or *f*26.50 per design; however, the fee shall be payable once only if the declaration concerns more than one design comprised within the same multiple deposit;
 - (*g*) the fee for registration of an assignment or transfer of one or more designs: F976 or *f*53 per deposit; if the registration concerns more than one deposit assigned or transferred to the same person: F488 or *f*26.50 for each subsequent deposit;
 - (*h*) the fee for registration of a license in respect of one or more designs or for its cancellation: F976 or *f*53 per deposit; if registration or cancellation concerns more than one deposit and if the license is granted to the same person: F488 or *f*26.50 for each subsequent deposit;
 - (*i*) the fee for recording a change of representative or a change in the name or address of the owner, of the licensee or of a change in the service address: F368 or *f*20 per deposit; if the registration concerns more than one deposit: F184 or *f*10 for each subsequent deposit;
 - (*j*) the fee for registration of a change of name or of address of the representative: F368 or *f*20 up to 100 designs; if the change concerns more than 100 designs, a surcharge of F368 or *f*20 per group or fraction of a group of 100 designs.
2. The fees relating to international deposits in respect of the transactions referred to below shall be:
the fee for registration of a license concerning one or more designs or its cancellation: F976 or *f*53 per deposit; if the registration or the cancellation concerns more than one deposit and the license is granted to the same person: F488 or *f*26.50 for each subsequent deposit.
3. For the acts mentioned below, a fee shall be payable as follows:
- (*a*) registration of the special declaration concerning maintenance of copyright referred to in Article 18: F488 or *f*26.50;
 - (*b*) registration of the claim action referred to in Article 19: F488 or *f*26.50.
4. For the acts mentioned below, remuneration shall be payable as follows:
- (*a*) information referred to in Article 22.1: F699 or *f*38, increased by F1,214 or *f*66 per hour where searching for or formulating the information takes more than one hour;
 - (*b*) copies of a registration: F147 or *f*8 per registration and for all other copies, F74 or *f*4 per page;
 - (*c*) certified copies of a registration: F736 or *f*40 per registration and for all other certified copies F184 or *f*10 per page;
 - (*d*) priority documents referred to in Article 22.2: F488 or *f*26.50;
 - (*e*) attestations referred to in Article 22.1: F488 or *f*26.50;
 - (*f*) correction after recording of an error in writing of the owner at his request: F368 or *f*20 per deposit; if the correction concerns more than one deposit: F184 or *f*10 for each subsequent deposit.
5. The surcharge due under Article 12.2 of the Uniform Law shall be F488 or *f*26.50.

Article 27

1. Payment of the fees and remuneration due pursuant to Article 26 for transactions effected at the Benelux Office or at the national offices may be paid in one of the following ways:
 - (*a*) by remittance or payment to the postal check account or bank account of the Benelux Office in the country in which the transactions are effected;
 - (*b*) by written request - in duplicate - to debit the amount to a current account opened by the depositor or his representative with the Benelux Office. In such case, the holder of the account receives at least once a quarter a recapitulation of payments and communication of the balance of his account;
 - (*c*) by a check drawn up to the order of the Benelux Office.
2. Payment for issues of the *Recueil des Dessins ou Modèles Benelux–Benelux-Tekeningen- of Modellenblad* and annual subscriptions shall be made as set out in paragraph 1.

3. All payments must indicate clearly and fully the purposes of the payment, with a detailed statement of each operation, where appropriate.

4. The payments referred to in paragraph 1 must be made prior to each operation, subject to Article 4. Proof of payment must be submitted at each operation with the Benelux Office or with the national offices.

The following shall be held proof of payment:

- (a) the document issued by a postal service, by the postal check office or bank or a copy of the document if it shows that the remittance or transfer has been made;
- (b) the written request to debit the amount to a current account with the Benelux Office where such account has a sufficient balance;
- (c) the check, subject to collection of the check.

Article 28

The price of the *Recueil des Dessins ou Modèles Benelux–Benelux-Tekeningen- of Modellenblad* shall be F313 or f17 per issue.

The price of the yearly subscription shall be F3,220 or f175.

These prices shall be increased by F27 or f1.50 per issue or F313 or f17 for subscriptions outside the Benelux territory.

Article 29

In execution of Article 7 of the Benelux Designs Convention, the Benelux Office shall remit to the national offices 20% of the amount of fees levied for acts carried out through their intermediary.

Article 30

1. The Executive Board may adjust the schedule of fees laid down in these Rules to allow for increases in the operating expenses of the Benelux Office. Adjustment may only be made once a year.

2. If the official parities of the Belgian franc, the Luxembourg franc or the florin are changed with respect to each other, the Executive Board shall adjust the schedule of fees laid down in these Rules as a function of such change. The decision may be taken following an emergency procedure laid down in the rules of the Executive Board.

3. The new schedules of fees shall be published in the Official Gazette of each of the Benelux countries and in the *Recueil des Dessins ou Modèles Benelux–Benelux-Tekeningen- of Modellenblad*; they shall enter into force on the date laid down by the Executive Board and, at the earliest, on the date of last publication in an Official Gazette.