
Industrial Designs Rules

C.R.C., c. 964 No amendments since 1993/12/29

INDUSTRIAL DESIGN ACT
Industrial Designs Rules (C.R.C., c. 964)

RULES RESPECTING INDUSTRIAL DESIGNS

SHORT TITLE

1. These Rules may be cited as the *Industrial Designs Rules*.

INTERPRETATION

2. In these Rules,
“Act” means the *Industrial Design Act*; (*Loi*)
“agent” means a person or firm appointed by an applicant to act on the applicant’s behalf for the purposes of these Rules; (*mandataire*)
“applicant” means a person who is named as the proprietor of the design in an application; (*demandeur*)
“application” means an application for registration of a design filed pursuant to section 4 of the Act; (*demande*)
“Commissioner” means the Commissioner of Patents; (*commissaire*)
“Office” means the industrial design section of the Office of the Commissioner of Patents; (*Bureau*)
“representative for service” means a person or firm in Canada who is appointed by an applicant or registered proprietor to receive documents that are to be served on the applicant or registered proprietor for the purposes of these Rules. (*représentant aux fins de signification*) SOR/93-297, s. 1.

COMMUNICATIONS

3. –
 - (1) All communications intended for the Office shall be addressed to the Commissioner.
 - (2) Correspondence addressed to the Commissioner shall be considered to be received by the Commissioner on the day that it is delivered to one of the following establishments, where the delivery is made during the ordinary business hours of that establishment,
 - (a) the Office; or
 - (b) an establishment that is designated by the Commissioner as an establishment to which correspondence addressed to the Commissioner may be delivered. SOR/93-297, s. 1.
4. –
 - (1) Subject to subsection (2), all communications relating to an application or a registration of a design shall be in writing.
 - (2) An applicant or agent may make an oral request to correct an error in an application that is obvious on the face of the application. SOR/93-297, s. 1.

5. –

(1) Subject to subsection (2), correspondence addressed to the Commissioner in relation to an application or a registration of a design shall be restricted to one application or one registration of a design, as the case may be.

(2) Subsection (1) does not apply in respect of correspondence relating to

- (a) an assignment or a licence affecting more than one application or registration of a design;
- (b) a change in the name or address of a registered proprietor of more than one registered design;
- (c) a change in the name or address of an applicant for more than one registration of a design;
- (d) a change in the name or address of the representative for service of a registered proprietor of more than one registered design; or
- (e) a change in the name or address of the representative for service or the agent of an applicant for more than one registration of a design. SOR/93-297, s. 1.

6. –

(1) Every person who is required by the Act or these Rules to furnish an address shall provide the Commissioner with a complete address, including a street name and number, at which the person can be located by the Commissioner.

(2) A person may, and where the address referred to in subsection (1) is not the postal address of the person, the person shall also provide the Commissioner with a complete postal address. SOR/93-297, s. 1.

7. –

(1) Correspondence relating to an application shall include

- (a) the application number, if one has been assigned;
- (b) the name of the applicant; and
- (c) the title of the design.

(2) Correspondence relating to a registration of a design shall include

- (a) the registration number of the design;
- (b) the name of the registered proprietor of the design; and
- (c) the title of the design. SOR/93-297, s. 1.

7.1 –

(1) Subject to subsection (2), the Commissioner shall conduct correspondence relating to an application with

- (a) the applicant, where there is only one applicant; or
- (b) where there is more than one applicant,
 - (i) the applicant authorized by the other applicant or applicants to act on their behalf, or
 - (ii) the first applicant named in the application, where no applicant has been authorized in accordance with subparagraph (i).

(2) The Commissioner shall conduct correspondence relating to an application with an agent, where the agent

- (a) has signed the application;
- (b) has transmitted the application to the Office; or
- (c) has notified the Commissioner of the agent's appointment in accordance with section 10. SOR/93-297, s. 1.

7.2 The Commissioner shall not consider any correspondence relating to an application that has been received from any person or firm other than the person or firm with whom correspondence on the subject of the application may be conducted pursuant to section 7.1. SOR/93-297, s. 1.

DOCUMENTS

[SOR/93-297, s. 1]

8. –

(1) An assignment presented for registration against an application for registration of an industrial design or against a registered industrial design shall be the original document of a typed or printed copy thereof, certified to be a true copy before a notary public or by the proper officer of a public office in which the original document was recorded.

(2) If an assignment is accompanied by a duplicate or a notarially certified copy thereof, the duplicate or copy shall be returned by the Commissioner with a certificate of registration, but if an assignment is not so accompanied, the Commissioner shall notify the person who presented it for registration of the number and date under which and of the application or registered industrial design against which it has been registered.

9. –

(1) An application shall not be treated as entitled to the right accorded by section 29 of the *Industrial Design Act* unless, while the application is pending, the applicant

- (a) requests that the application be so treated, and
- (b) informs the Commissioner of the filing date and number in the foreign country of the application on which his request is based.

(2) The Commissioner of Patents

- (a) may require an applicant who has requested that his application be treated as entitled to the right accorded by section 29 of the *Industrial Design Act*
 - (i) to file a certified copy of the application on which the request is based, and
 - (ii) to file a certificate from the Patent Office in which the application was filed showing the date of its filing therein; and
- (b) may refuse to treat the application as entitled to the right accorded by section 29 of the *Industrial Design Act* until the certified copy and certificate mentioned in paragraph (a) have been filed.

AGENTS

10. –

(1) Subject to subsection (2), the Commissioner shall not recognize a person or firm as an agent unless the applicant or the person or firm provides the Commissioner with a written notice signed by the applicant, that states that the person or firm is the agent.

(2) Subsection (1) does not apply where the agent who is communicating with the Commissioner has signed the application or transmitted it to the Commissioner.

(3) Where the Commissioner receives correspondence from a person or firm who claims to be an agent but in respect of whom no written notice has been given pursuant to subsection (1), the Commissioner shall advise the person or firm in writing that the person or firm has 60 days from the date of the advisement to file a written notice signed by the applicant, that states that the person or firm is the agent.

(4) Where a written notice is received within the time period referred to in subsection (3), the Commissioner shall consider the correspondence to have been filed on the date that the correspondence was actually filed.

(5) Where a written notice is not received within the time period referred to in subsection (3), the Commissioner shall remove the correspondence from the file and shall consider it not to have been filed. SOR/93-297, s. 2.

REPRESENTATIVE FOR SERVICE

11. A notice or a proceeding relating to an application or registration of a design that is sent to, or served on, a representative for service has the same effect as if the notice were sent to, or the proceeding served on, the applicant or the registered proprietor, as the case may be. SOR/93-297, s. 2.

APPLICATIONS

12. –

- (1) An application shall be made in the form set out in the schedule.
- (2) An application shall relate to one design only.
- (3) An application shall not be considered to relate to more than one design if the application relates to designs that do not differ substantially from one another.
- (4) Where the Commissioner finds that an application does not comply with subsection (2), the applicant shall, on being so advised by the Commissioner, limit the application to one design only and any other design disclosed may be made the subject of a separate application if it is filed before the registration of a design based on the original application.
- (5) Where an original application referred to in subsection (4) is abandoned, the time period for filing the separate application referred to in subsection (4) terminates with the expiration of the time period set out in section 17 for reinstating the original application.
- (6) The separate application referred to in subsection (4) shall have the same filing date as the original application. SOR/93-297, s. 2.

13. In addition to the information and material required by subsection 4(1) of the Act, an application shall contain the following information, namely,

- (a) where the applicant has no office or place of business in Canada, the name and address of a representative for service; and
- (b) where an agent has been appointed, the name and address of the agent. SOR/93-297, s. 2.

14. An application shall be clearly and legibly printed on sheets of good quality white paper that are

- (a) 20 cm×33 cm (8 inches×13 inches) or 22 cm×28 cm (8½ inches×11 inches) with a clear margin of at least 2.5 cm (1 inch) on the left hand side; or
- (b) in A4 format with a clear margin of at least 2.5 cm (1 inch) on the left hand side. SOR/93-297, s. 2.

15. –

- (1) A drawing included in an application shall be made with clear, permanent black lines.
- (2) A photograph included in an application shall be in black and white.
- (3) A drawing or photograph referred to in subsections (1) and (2), respectively, shall be on paper
 - (a) that is 20 cm×33 cm (8 inches×13 inches) or 22 cm×28 cm (8½ inches×11 inches) or in A4 format; and
 - (b) that lends itself to being clearly reproduced by photocopying equipment.
- (4) All views on a drawing or photograph shall
 - (a) show features of the design clearly and accurately;
 - (b) show the article to which the design is applied;

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- (c) show the article in isolation; and
 - (d) be on a sufficiently large scale as to be clear and apparent.

(5) In a case of a set or variants, all views in each drawing or photograph shall show all the features of the design. SOR/93-297, s. 2; SOR/93-584, s. 1.

AMENDMENT OF APPLICATION

16. –

(1) Subject to subsection (2), an applicant may amend an application at any time prior to the registration of a design by submitting information and material in support of the amendment to the Commissioner.

(2) The Commissioner shall not accept any amendment to an application that would substantially alter the design to which the application relates. SOR/93-297, s. 2.

REINSTATEMENT OF APPLICATION

17. A request pursuant to subsection 5(4) of the Act for reinstatement of an application shall be made within six months after the date on which the application was considered to have been abandoned pursuant to subsection 5(3) of the Act or two years after the coming into force of this section, whichever is the later. SOR/93-297, s. 2.

PRIORITY

18. A request for priority under paragraph 29(b) of the Act shall be made by filing, within six months after the date of filing of the application to register the design, a declaration indicating the country in which the previous application to register the same design was made and its date of filing in that country. SOR/93-584, s. 2.

FEEES

19. –

(1) The registered proprietor of a design shall, before the expiration of the five year period beginning on the date of the registration of the design, pay the prescribed fee, set out in item 5 of Schedule II, for the maintenance of the registration.

(2) Where the registered proprietor of a design does not comply with the requirements of subsection (1), the registered proprietor may, on application to the Commissioner, maintain the registration of the design if

- (a) the application is made within six months after the expiration of the five year period beginning on the date of the registration of the design;
- (b) the prescribed supplementary fee, set out in item 6 of Schedule II, for the application for maintenance of the registration, is paid; and
- (c) the prescribed fee for the application for maintenance of the registration is paid. SOR/93-584, s. 2.

20. –

(1) Any person for whom the Commissioner renders an act or a service described in column I of an item of Schedule II shall pay to the Receiver General for Canada the fee set out in column II of that item.

(2) The fee referred to in subsection (1) shall be paid in Canadian funds at the time the act or service is requested. SOR/93-584, s. 2.

SCHEDULE I

(Section 12)

APPLICATION FORM

APPLICATION FOR REGISTRATION OF A DESIGN

The applicant,

(name of applicant)

whose complete address is

hereby requests registration of a design for a

(title identifying article)

of which the applicant is the proprietor.

The design was not, to the proprietor's knowledge, in use by any person other than the first proprietor at the time the design was adopted by the first proprietor.

Description of the design: _____

Drawing(s)/photograph(s) of the design is(are) included.

Signed at _____ on _____
(place) (date)

Signature of
Applicant
Agent for the Applicant

SOR/91-450, s. 1; SOR/93-297, s. 3; SOR/93-584, s. 3.

SCHEDULE II

(Subsections 19(1), (2) and 20(1))

TARIFF OF FEES

Column I	Column II
Item Act or Service	Fee

1.	Examination of an application to register a design pursuant to subsection 4(1) of the Act	\$160.00
2.	Examination of an application to register an assignment, or any other document affecting a design, including registering the assignment, or other document and issuing a certificate of registration thereof pursuant to subsection 13(1) of the Act	
	(a) for the first design referred to in the assignment, or in the other document	35.00
	(b) for each additional design referred to in the assignment, or in the other document	15.00
3.	Examination of an application for the renewal of a design pursuant to subsection 10(1) of the Act as that subsection read immediately before the coming into force of section 163 of the <i>North American Free Trade Agreement Implementation Act</i>	215.00
4.	Supplementary fee for the examination of an application for the renewal of a design pursuant to subsection 10(2) of the Act as that subsection read immediately before the coming into force of section 163 of the <i>North American Free Trade Agreement Implementation Act</i>	35.00
5.	Maintenance of a registration of a design pursuant to subsection 19(1)	215.00
6.	Supplementary fee for the application for maintenance of a registration of a design pursuant to subsection 19(2)	235.00
7.	Providing copies of or extracts from the Register of Industrial Designs, or copies of certificates, drawings, drawn copies of designs or other documents	
	(a) for each photocopied page	.50
	(b) for each typed page	5.00
8.	Certification of documents.	15.00

SOR/93-584, s. 4.