

S.I. 88 of 2014

INDUSTRIAL PROPERTY ACT, 2014

(Act 7 of 2014)

Industrial Property (Layout-design) Regulations, 2014

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S.I. 88 of 2014**INDUSTRIAL PROPERTY ACT, 2014***(Act 7 of 2014)***Industrial Property (Layout-design) Regulations, 2014**

In exercise of the powers conferred by section 125 of the Industrial Property Act, 2014, the President being the Minister responsible for Legal Affairs hereby makes the following regulations—

PART 1 - PRELIMINARY

1. These Regulations may be cited as the Industrial Property (Layout-design) Regulations, 2014.

Citation

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

Interpretation

“Act” means the Industrial Property Act, 2014 (*Act 7 of 2014*);

“agent” means a person or firm appointed by an applicant to act on his or her behalf for the purposes of these regulations;

“Form” means a Form set out in Schedule 1 appended to these regulations;

“original layout-design” means a layout-design of integrated circuit that is the result of its creator's own intellectual effort and is not commonplace among creators of layout-design and manufacturers of integrated circuits at the time of its creation.

3.(1) A layout-design which is original shall only be registered under these regulations.

Original
layout-design

(2) A layout-design consisting of a combination of elements and interconnections that are commonplace shall be registered only if the combination, taken as a whole, is original.

Right to
registration

4.(1) The right of registration of a layout-design belongs to the creator of the layout-design.

(2) Without prejudice to subregulation (1), the right of registration of the layout-design shall —

- (a) where two or more persons have jointly created a layout-design, the right to the registration belong to them jointly;
- (b) where the layout-design was created pursuant to a contract on commission, the right to the registration belongs to the person who commissioned the work, unless otherwise provided in the contract; and
- (c) where the layout-design was created by an employee in the course of the contract of employment, the right to the registration belong to —
 - (i) the employee, if the creation of the layout-design is not part of employee's regular duties even if the employee uses the time, facilities and materials of the employer; or
 - (ii) the employer, if the layout-design is the result of the performance of employee's regularly assigned duties, unless there is an agreement, express or implied, to the contrary.

(3) The creator of a layout-design may assign in writing the right to registration of such layout-design on any other person.

5.(1) If two or more persons have made the same layout-design separately and independently of each other, the right to the registration shall belong to the person who filed an application for such layout-design, or where two or more applications are filed for the same layout-design, to the applicant who has the earliest filing date.

First to file
rule

(2) The right to registration under subregulation (1) shall be subject to the limitations as provided under section 60 of the Act and the resolution in an appropriate proceeding of the issue of originality.

(3) Where two or more applications for the same layout-design created separately and independently of each other have the same filing date, the registration shall be issued jointly to the applicants of all such applications.

6.(1) The fees to be paid under these regulations shall be as provided under column (2) of Schedule 2 to these regulations for a service mentioned under column (1) of that Schedule.

Fees

(2) The fees specified in Schedule 2 shall be paid to the Registrar upon the filing of the application by such means and in such manner as the Registrar may direct.

7.(1) Every application and document under these regulations shall be in English or be accompanied with a certified English translation.

Language of
documents and
translations

(2) The Registrar shall refuse any application or document which is not in English unless the applicant submits to the Registrar a certified translation of the application or document into English.

PART 2 - REGISTRATION OF LAYOUT-DESIGN

8.(1) An application for registration of the layout-design shall be made to the Registrar in Form LDC-1 accompanied with the fee specified under Schedule 2.

Application
for registration
of layout-
design

(2) The application shall contain the details specified in section 57(2) of the Act.

(3) The applicant may submit other relevant information or data regarding the layout-design including the title thereof, if any.

(4) The application may be accompanied by a specimen of the article embodying the layout-design.

Who may
make an
application

9.(1) The creator of the layout-design or his or her heirs, legal representative or assignee, as the case may be, or any person in the name of creator, may make an application for registration of the layout-design.

(2) If the applicant becomes insane or incapacitated, the legally appointed administrator may make the application for registration of the layout-design and obtain the certification of registration in the name of the creator of the layout-design.

(3) In case the whole interest in the layout-design is assigned, the application may be made by or in the name of the assignee who may sign the application.

(4) In case the assignee is a juridical person, any officer thereof may sign the application on behalf of the assignee.

(5) In case of an aliquot portion or undivided interest in the layout-design, any of the joint owners may make the application.

Appointment
of resident
agent or
representative

10.(1) An applicant who is not a resident in Seychelles shall appoint an agent or representative who is resident in Seychelles upon whom notice or process for judicial or administrative procedure in respect of the registration of the layout-design shall be served subject to the condition that —

- (a) in case there are two or more persons appointed by the applicant, the Registrar shall forward all actions to the last agent or representative appointed;
- (b) in case the agent or representative has appointed an attorney or associate attorney with the written authorisation of the applicant, the Registrar shall forward all actions to the attorney or associate attorney appointed.

(2) The applicant may, at any stage in the proceedings, revoke the appointment of attorney or associate attorney or authorisation to appoint attorney by notice in writing to the Registrar.

(3) The Registrar shall notify the agent or representative or attorney, as the case may be, of such revocation.

(4) For the purposes of this regulation, any action of the Registrar forwarded to the agent or representative or attorney, as the case may be, shall be deemed to be the notice to the applicant.

11. The Registrar shall, on being satisfied that application is complete in all respect, accord as the filing date of the application the date of its receipt of the fully accomplished application together with the requisite fee and the drawings, photographs or adequate representations of the layout-design as provided for in these regulations.

Accordinging of
filing date

12.(1) Where the application complies with the requirements of section 57 of the Act in these regulations, the Registrar shall register the layout-design in the Register of Layout-design without examination of the originality of the layout-design, the right of the applicant to protection or the accuracy of the facts detailed in the application.

Registration
and
publication

(2) The Register of Layout-design shall contain the following—

- (a) name, nationality and address of the rights holders;
- (b) reference number;
- (c) title of the layout-design;
- (d) filing date; and
- (e) where indicated in the application under section 57(2)(d) of the Act, the date of the first commercial exploitation, anywhere in the world of the layout-design.

(3) The Registrar shall publish in the *Gazette* the layout-design as soon as it is registered.

Certificate of registration

13.(1) The certificate of registration shall be issued on payment of the fee specified in Schedule 2, in the name of the Republic of Seychelles under the seal of the Registrar and shall be signed by the Registrar, and registered together with the drawings, if any, and such other relevant data in the books and records of the Registrar.

(2) The certificate of registration shall contain the name, nationality, address, of the creator, reference number and period of validity.

Term of registration of layout design

14.(1) The registration of a layout-design shall be valid for a period of 10 years, to be counted from the date of commencement of the protection accorded to the layout-design.

(2) The protection of a layout-design shall commence—

- (a) on the date of the first commercial exploitation, anywhere in the world, of the

layout-design by or with the consent of the right holder, provided that an application for registration is filed with the Registrar within 2 years from such date of first commercial exploitation; or

- (b) on the filing date accorded to the application for the registration of the layout-design if the layout-design has not been previously exploited commercially anywhere in the world.

15.(1) An application for any change of the ownership, assignment, surrender, amendment, corrections or other modification in connection with the registration of the layout-design shall be made to the Registrar in Form LDC-2 along with the fees specified in Schedule 2.

Change of ownership, assignment, surrender, amendment, corrections and other changes

(2) The application shall be accompanied with an affidavit and proof if any, in support of the request.

(3) The Registrar may require such person to submit additional proof to substantiate his or her request.

(4) Where no proof in support of the application or additional proof as required under subregulation (3) is submitted, the application shall be rejected.

(5) Where the requisite fee for the change as provided for in subregulation (1) is not paid, the application shall be deemed not filed.

16.(1) Where a court has notified the Registrar of its final decision under section 63(6) of the Act invalidating the registration of a layout-design or part thereof, the registration of the layout-design or part thereof shall be void from the beginning and the entries of the layout-design or part thereof shall be deleted from the Register of Layout-design.

Cancellation of registration

- (2) The Registrar shall publish in the *Gazette* the

cancellation of the registration of the layout-design or part thereof.

Non-voluntary
licence

17.(1) An application for non-voluntary licence of a registered layout-design shall be made to the Registrar in writing containing a statement giving the evidence that the applicant was unable to obtain a licence in accordance with section 24(2) of the Act.

(2) The application for non-voluntary licence shall be made in Form LDC-3 accompanied with a fee specified in Schedule 2.

(3) The Registrar may only grant non-voluntary licences of registered layout-design for non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive.

(4) Upon a direction from the judicial or administrative process, the Registrar shall amend the Register of Layout-design and record the decision and publish the decision in the *Gazette* as soon as possible.

PART 3 - MISCELLANEOUS

Infringement

18. In case of any infringement of the registered layout-design, any action may be brought in accordance with sections 107 to 120 of the Act.

Invalidation

19.(1) An application for invalidation of the registration of a layout-design may be made to the Supreme Court.

(2) Upon receipt of any decision of the court on the application for invalidation of the registration of a layout-design, the Registrar shall —

- (a) record the content of the decision;
- (b) amend the Register of Layout-design; and
- (c) publish a notice to this effect in the *Gazette*, within one month.

20. Any person may inspect the Register of Layout-designs or records and files of the Registrar with respect to the registration of layout-design and may obtain extract therefrom, by submitting an application in Form LDC-4 along with a fee specified in Schedule 2. Inspection

SCHEDULE 1

FORMS

(Regulation 2)

FORM LDC-1

[Regulation 8(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014</p> <p>Industrial Property (Layout-design) Regulations, 2014</p> <p>FORM LDC-1</p> <p>APPLICATION FOR REGISTRATION OF LAYOUT-DESIGN OF INTEGRATED CIRCUIT</p> <p>TO: REGISTRAR GENERAL</p>	<p>For Official Use:</p> <p>Date of Receipt by Registrar General's Office:</p> <p>APPLICATION NO: Office Stamp</p> <p>Fees received on: Amount</p> <p>Applicant's or Agent's File Reference</p>
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Request: The registration of the layout-design of integrated circuit described herein below in hereby requested.

I. Full name and address of applicant:

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(If the applicant resides abroad, an address for service in Seychelles must be provided)

Nationality with passport number:

Country of Residence or
Principal place of business:

Capacity in which applicant
is applying for registration:

Telephone Number Fax Number E-mail and Website Address:

II. Full name and address of Agent (if any):

.....

.....

Telephone Number Fax Number E-mail and Website Address:

Agent's Registration Number:.....

Agent's own reference:

Evidence of Agent's Power of Attorney:

III. A brief and precise description of the layout design of integrated circuit: (if the space is not sufficient, please attach extra papers duly numbered)

IV. Information as to whether the layout-design of integrated circuit is commercially exploited in or outside Seychelles and date of the First Commercial exploitation, if any

V. The Particulars establishing the right to the protection

- (i) the creator
- (ii) employer
- (iii) Commissioned work
- (iv) Any other

VI. QUALITY, REPUTATION OR OTHER CHARACTERISTICS

The quality, reputation or other characteristics of the layout-design of integrated circuit is used and any conditions under which it may be used, are the following:

Additional information is contained in the supplementary box

Additional information accompanies this Form

VII. FEES Accompany this Form.

VIII. I being the applicant, declare that the layout design of integrated circuit of which registration is sought is original under section 55 of the Act.

VIII. DECLARATION:

Signature of the Applicant/Agent:

Name of signatory (in block letters):

Date:

(If the applicant is a partnership, the full names of all partners must be stated)
(Companies should give their state and registration number)

FORM LDC-2
[Regulation 15(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014</p> <p>Industrial Property (Layout-design) Regulations, 2014</p> <p>FORM LDC-3</p> <p>APPLICATION FOR RECORDING OF CHANGE IN OWNERSHIP.</p> <p>TO: REGISTRAR GENERAL</p>	<p>For Official Use:</p> <p>Date of Receipt by Registrar Generals Office:</p> <p>APPLICATION NO: Office Stamp</p> <p>Fees received on: Amount</p> <p>Applicants or Agents File Reference</p>
<p>I. IN THE MATTERS OF:</p> <p>Application for Registration of Layout-design of integrated circuit No: Filing Date: Layout Design No Date of first commercial exploitation Date of Registration</p>	
<p>II. Full name and address of applicant(s)/owner(s)*:</p> <p>.....</p> <p>(If the applicant resides abroad, an address for service in Seychelles must be provided)</p> <p>Nationality with passport number:</p> <p>Country of Residence or Principal place of business:</p> <p>Capacity in which applicant is applying for registration:</p> <p>Telephone Number Fax Number E-mail and Website Address:</p>	

III. REQUEST

The Registrar General is hereby requested to record the change in ownership of the above-identified **

The present applicant(s)/owner(s)* is/are identified above

The new applicant(s)/new owner(s)* is/are identified below.

* delete whichever does not apply.

** Indicate application or title concerned.

IV. NEW APPLICANT(S)/NEW OWNERS *

Name:

Address:

Address for Service in Seychelles:

Nationality (giving passport number):

Country of residence or principal place of business:

Telephone:

Fax:

E-mail and Website Address:

V. ADDITIONAL INFORMATION

The following items accompany this Form:

The original or a certified copy of the document evidencing the change of ownership, signed by or on behalf of the contracting parties.

Other documents evidencing the change of ownership (commercial contract), please specify

Fees

Other (specify)

VI. SIGNATURES

..... (New Applicant(s)/New Owner(s)/Agent**)

Date.....

..... (New Applicant(s)/new Owner(s)/Agent**)

Date.....

..... (Applicant(s)/Owner(s)/Agent**)

Date.....

..... (Applicant(s)/Owner(s)/Agent**)

Date.....

* Delete whichever does not apply

** Delete whichever does not apply and type name(s) under signature.

FORM LDC-3
[Regulation 17(2)]

<p align="center">Industrial Property act, 2014 Industrial Property (Layout-design) Regulations, 2014</p> <p align="center">APPLICATION FOR A NON - VOLUNTARY LICENCE</p> <p align="center">Form LDC-3</p> <p>TO:</p>	<p>For Official use.</p> <p>Application Reference:.....</p> <p>Date received:.....</p> <p>Fee paid:.....</p>
<p>The Registrar General Republic of Seychelles</p>	
<p>I hereby request the Registrar to grant me a Non-Voluntary Licence.</p>	
<p>Applicants Name:</p>	
<p>Address:</p>	
<p>Telephone:</p>	<p>Fax:</p>
<p>E-mail address:</p>	
<p>Evidence for application as set out in sections 23 and 24(2) of the Industrial Property Act, 2014, is enclosed.</p>	
<p>Reference number or title for which the non-voluntary licence is sought:</p>	
<p>Scope and duration being sought:</p>	
<p>Agent (if any)</p>	
<p>Address:</p>	
<p>Telephone:</p>	<p>Fax:</p>
<p>E-mail address:</p>	
<p>Place and date</p>	<p>Signature of Applicant or Agent</p>

FORM LDC-4
[Regulation 17(2)]

<p>INDUSTRIAL PROPERTY ACT, 2014 Industrial Property (Layout-design) Regulations, 2014 FORM LDC-4 REQUEST FOR INSPECTION OF THE REGISTER OF LAYOUT-DESIGNS, etc., OR FOR OBTAINING ANY EXTRACT THEREFROM.</p>	<p>For official use only: Notice received on: _____ Fees paid on: Application No: _____</p>
<p>Applicants Name, nationality: _____ Address: _____ Tele/Fax/E-mail _____ Name of the owner of the Layout-Design _____ Layout-Design Number being sought _____ Date and No of Gazette Notification _____ Details of the Layout-Design inspection or extract thereof being sought (Add extra papers where necessary) _____ Addresses for service in Seychelles (if applicable) _____ Agent Name _____ Address _____ Tele/Fax/E-mail _____ Date _____</p> <p style="text-align: right; margin-right: 100px;">..... Signature of the Applicant/Agent.</p>	

SCHEDULE 2
[Regulation 6(1)]
FEES

Serial number	Service	In Seychelles Rupees
(1)	(2)	(3)
1.	Fee for filing of application.	2000
2.	Grant of Certificate of Registration	500
3.	Application for change of ownership, etc.	250
4.	Application for non-voluntary licence	500
5.	Application for (a) inspection of Register of layout-designs or records of files of the Registrar relating to registration of layout-design; (b) obtaining extract from the Register of layout-designs or records of files of the Registrar relating to registration of layout-design,	200 200 [for each entry in the register or for each page or part thereof in case of records from file]

MADE this 20th day of October, 2014.

JAMES A. MICHEL
PRESIDENT
