

CHAPTER 312

INDUSTRIAL DESIGNS ACT

SUBSIDIARY LEGISLATION

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LAWS OF SAINT VINCENT AND THE GRENADINES
REVISED EDITION

**INDUSTRIAL DESIGNS
REGULATIONS**

SRO 13 of 2009

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INDUSTRIAL DESIGNS REGULATIONS

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INDUSTRIAL DESIGNS REGULATIONS

In exercise of the powers conferred by section 22 of the Industrial Designs Act, No. 20 of 2005, the Minister makes the following Regulations.

[SRO 13 of 2009.]

[Date of commencement: 8th July, 2009.]

1. Citation

These Regulations may be cited as the Industrial Designs Regulations, 2009.

2. Interpretation

In these Regulations—

“**applicant**” means a person for whom an application is made;

“**application**” means an application for the registration of an industrial design;

“**office**” means the Commerce and Intellectual Property Office;

“**principal Act**” means the Industrial Designs Act.

[Chapter 312.]

3. Fees

The fees that are to be paid under the principal Act and these Regulations are specified in the First Schedule.

4. Currency

Payments shall be made in Eastern Caribbean currency.

5. Excess fee

When a fee that is paid by a person to the Registrar for any purpose exceeds the fee fixed by these Regulations for that purpose by more than ten dollars, the person who paid the fee is entitled to be refunded the amount of excess less ten dollars.

6. Fee refund

When a fee is paid to the Registrar by any person by mistake for an application that is withdrawn before it is given an application number, or for a service that cannot be provided, the person who paid the fee is entitled to a refund of the fee less twenty-five dollars, if he claims the refund within one year of the payment of the fee.

7. Refund of advance fee

When a person pays a fee in advance for registration, he is entitled to a refund of the fee, less fifteen dollars, if the application is withdrawn.

8. Cheques

A payment of a fee by cheque may be accepted by the Registrar as being a payment of the fee when the cheque is received by him, but if the cheque is not paid when presented to the bank on which it is drawn and not made good within such time as the Registrar may fix, the acceptance of the fee is revoked and any thing done pursuant to the payment is void and, if appropriate, shall be so recorded in the Register.

9. Form required

(1) In submitting a document to the Registrar for any purpose, the person submitting the document shall use the form set out in the Second Schedule that is appropriate for the purpose, but the form may be modified in such manner as is necessary in the circumstances.

[Second Schedule.]

(2) In submitting a document to the Registrar, one copy only of the document need be submitted.

10. Replacing documents

If a document that is submitted to the Registrar differs significantly from the form in the Second Schedule intended to be used for the purpose of the submission, the Registrar may require that the document be replaced, within a time fixed by the Registrar, by one that conforms to the document required by the Second Schedule to be used for the purpose.

11. Paper requirements

(1) All applications, notices, statements, papers having representations affixed, or other documents authorised or required by the principal Act or these Regulations to be made, left or sent to the Registrar shall be on strong, durable white paper and, except in the case of statutory documents and affidavits, shall be written on one side of the paper only.

(2) Each sheet that is not a graphic representation shall have its short sides at the top and bottom.

(3) Each sheet shall be of the same size and on A-4 paper or such other size as the Registrar may permit.

12. Page requirements

(1) The pages of documents, other than graphic representations shall be numbered consecutively, preferably at the top of the page.

(2) Page margins shall be not less than two centimetres.

(3) Except for graphic representations, pages shall be typed or printed, preferably with one and a half spacing or double spacing.

13. Language of documents

(1) An application shall be in English.

(2) The Registrar may refuse to take cognisance of any document that is not in English until he is provided with a translation verified by affidavit.

14. Graphics requirements

The graphic representations in an application shall meet the following requirements—

- (a) the representations are to be on white paper or other material suitable for reproduction;
- (b) the sheets of representations are to be the same size as those used in the application;
- (c) the representations are to be prepared in durable dark lines suitable for reproduction;
- (d) the representations are to appear on only one side of a sheet;
- (e) the representations are to be on a scale sufficiently large to show the features of the design clearly;
- (f) figures in a representation are to be numbered consecutively without regard to the number of sheets in the representation and so far as possible the figures are to be arranged in numerical order; and
- (g) figures in a representation can be continued on subsequent sheets if necessary or several figures can appear on the same page.

15. Folds, breaks

Graphic representations in an application shall be free of such folds, breaks or creases as render them unsuitable for reproduction.

16. Photographs

Photographs of an article taken against a neutral background may be used in an application instead of graphic representations if the photographs clearly illustrate the design and can be readily reproduced.

17. Specimens

(1) A specimen shall not exceed one kilogram in weight or thirty centimetres in any dimension.

(2) The Registrar may require that a graphic representation or a photograph be provided instead of a specimen when the size and weight of the specimen makes it difficult to process and store it.

(3) Specimens that are perishable or made of dangerous material shall not be submitted to the Registrar.

18. Communicating with Registrar

Applications, correspondence related thereto, and all communications intended for the Registrar shall be mailed to or deposited at the Commerce and Intellectual Property Office, Saint Vincent and the Grenadines.

19. Mode of communication

(1) Applications shall be proceeded with, and other communication with the Registrar effected by written correspondence; and, unless the Registrar for good reason decides otherwise, no regard need be given to any other mode of communication with the Registrar.

(2) When communicating with the Registrar about an application or registered design, the correspondent shall identify the application or registration clearly, giving such information as the date of filing, kind of product, name of applicant and registration number.

20. Communication from Registrar

All correspondence from the Registrar to an applicant shall be sent—

- (a) to the agent of the applicant if an agent resident in Saint Vincent and the Grenadines has been appointed;
- (b) if no agent has been appointed in Saint Vincent and the Grenadines, to the address for service of the applicant in Saint Vincent and the Grenadines; or
- (c) to the applicant, if no agent has been appointed in Saint Vincent and the Grenadines to represent the applicant and the applicant has no address for service filed in the Office.

21. Multiple applicants

When, in respect of an application, there is more than one applicant, correspondence shall be conducted—

- (a) with the applicants' agent in Saint Vincent and the Grenadines if an agent resident in Saint Vincent and the Grenadines has been named to represent all the applicants;
- (b) with an applicant resident in Saint Vincent and the Grenadines who has been nominated to represent all the applicants, if no agent resident in Saint Vincent and the Grenadines has been appointed;
- (c) with the first applicant named in the application, if there is neither an agent resident in Saint Vincent and the Grenadines nor an applicant resident in Saint Vincent and the Grenadines who has been appointed to represent the applicants.

22. Limited correspondents

The Registrar shall conduct correspondence concerning an application with only one person, but having regard to regulations 20 and 21.

23. Address and presumption

A person who corresponds with the Registrar shall provide his full postal address, and any correspondence sent by the Registrar to that person at the address so provided shall be deemed to be sent on the date that the records of the Office show it to have been sent.

24. Address for service

A licensee and a person who is shown on the Register as the owner of a design shall maintain an address for service in Saint Vincent and the Grenadines and provide the Registrar with notice of that address for recording in the Register.

25. Filing time

Any correspondence with the Registrar that is due on any day on which the Office is closed for business shall be accepted as properly filed if it is received on the next day that the Office is open for business.

26. Replacement of correspondence

The Registrar may accept or send out replacing correspondence if he is satisfied that mail to or from the Office was sent but never received and the effective date of the replacing correspondence is any date that the Registrar determines shall apply.

27. Interruptions of mail

Where, by evidence satisfactory to the Registrar, a person proves that he was unable to do anything within the time prescribed by the principal Act or these Regulations because of an interruption in mail service in Saint Vincent and the Grenadines or elsewhere, the Registrar may, before or after the expiration of the time for doing that thing, extend the time to make allowances for the period of the interruption in mail service.

28. Fixing time limits

The Registrar may, in respect of an application, fix a period of time for the doing of anything for which no time limit is otherwise fixed by the principal Act or these Regulations and an application shall be deemed abandoned if, in respect of that application, the thing is not done within the time so fixed.

29. Changing time limits

When, by an affidavit setting out the relevant facts, the Registrar is satisfied that any time fixed by these Regulations for the doing of any thing should be extended in a particular case, the Registrar may, either before or after the expiration of the time, extend it for such period as he thinks suitable in the circumstances of the case.

30. Withdrawal of joint application

When an application that is filed by joint applicants is being proceeded with by one of the joint applicants, it may not be withdrawn without the written permission of all the other joint applicants.

31. Surrender of joint designs

A design registration that is owned by several persons may not be surrendered without the written permission of all the owners of the design.

32. Change of designers' names

When, after an application has been filed, it appears that the names of one or more creators of the design were improperly included in or omitted from the application, then, if the Registrar is satisfied, by an affidavit setting out all the relevant facts, that a correction should be made, the Registrar may delete or add, as the case requires, the names of those other creators.

33. Creators not applying

(1) When a design is created by several persons and one or more of them refuses to make an application in respect of the design, or the whereabouts of one or more of the creators cannot be ascertained after a diligent inquiry, the other creators may make an application in respect of that design.

(2) If the Registrar is satisfied, by an affidavit setting out the relevant facts, that the creators missing from the application refuse to make application or cannot be located, the creators making the application are entitled to register the design if all other requirements of the principal Act and these Regulations are complied with.

34. Correcting errors

A document relating to an application or registration may be corrected if the Registrar is satisfied that the document contains an error of a clerical nature and that its correction would involve no change of substance to the application or registration.

35. Providing for deficiencies

Where no provision is made in the principal Act or these Regulations in respect of any matter arising in the administration of the principal Act, the Registrar may make such directions in respect thereof as he considers necessary.

36. Registrar's certificates

(1) The Registrar may give a certificate other than a certificate under section 8 of the principal Act, regarding any entry, matter or thing that he is authorised or required by the principal Act or these Regulations to make or do.

(2) A person who can show an interest in an entry, matter or thing for which a certificate is required may, by an application in Form 9, request the certificate from the Registrar, and the applicant need not disclose his interest unless required by the Registrar to do so.

37. Inquiries of Office

The Registrar may acknowledge inquiries made to the Office, but the Registrar need not furnish any applicants or other persons with information that would require a search of the public records of the Office or provide advice on matters concerning the interpretation of the principal Act or Regulations or concerning other questions of law.

FIRST SCHEDULE

[Regulation 3.]

Fees

	\$
1. On application for registration—	
for the first design in the application	100.00
for each additional design	50.00
2. On granting registration of an industrial design—	
for the first design in the application	100.00
for each additional design	50.00
3. On application for a renewal under section 10(1) of the principal Act—	
for the first design in the application being renewed	100.00
for each additional design	20.00
4. On application for copies of records in the register	2.00
	per page
5. On application for the recording of a licence-contract	50.00
6. On application for copies of registrations	2.00
	per page
7. On application that a transfer and assignment of application for registration be recorded	40.00
8. On application that a transfer and assignment of registered design be recorded ...	40.00
9. On application that a change of address be recorded	15.00
10. For certification of any documents	40.00
11. On application for a change in name to be recorded	15.00
12. On surrender of design	50.00

SECOND SCHEDULE

[Regulation 10.]

Forms

FORM 1

INDUSTRIAL DESIGNS ACT, 2005

Application for Registration of an Industrial Design

I/We

(give name(s)) whose full postal address(es) is/are respectively

do hereby apply for the registration of an Industrial Design for

(kind of product)

SECOND SCHEDULE, FORM 1—continued

RELEVANT INFORMATION

(use only those headings that are applicable)

ADDRESS FOR SERVICE

AGENT

(name and address)

CREATOR(S) OF THE DESIGN—

Complete only if accompanied by Form 2—

Name(s) and address(es)
.....
.....

PRIORITY

Indicate date and number of earlier application(s), the country where filed, and the name of the applicant(s) of the priority application(s). I/We herewith submit or will submit within ninety days of the date of this application a certified copy of the earlier application(s) on which priority is based, and which is/are listed below:

CLASSES OF PRODUCT

(complete only if applicable)
.....

DESCRIPTION

(give a short description of the visual features of the designs, indicating what parts of it are original)

.....
.....

GRAPHIC REPRESENTATION

(if supplied) A photograph, drawing or other graphic representation of the said Industrial Design is hereunto annexed.

SPECIMEN

(if supplied) A specimen of the article-containing said Industrial Design is submitted herewith.

EXECUTION This application is executed on

at

by (or on behalf of the applicant by)

.....
Signature

DATE SUBMITTED:

(indicate date when being sent to the Commerce and Intellectual Property Office)

Note.—If this application is filed by an agent it must be accompanied by a power of attorney authorising the agent to make the application.

FORM 2

INDUSTRIAL DESIGNS ACT, 2005

Statement of Designer

I/We

(give name(s) and address(es) of the designer(s)) do hereby declare that I/We created the Industrial Design for

(kind of product as stated in the application for registration) filed herewith, and request that my/our name(s) and address(es) be entered on the Register under section 8(1) of the Act.

.....
.....

Signature(s)

FORM 3

INDUSTRIAL DESIGNS ACT, 2005

Appointment of Agent

The undersigned hereby appoints
whose full postal address is

As agent, in respect of an application for an Industrial Design entitled and empowers the appointed agent to sign and amend the application, to prosecute it, to receive the registration certificate, to effect renewal, and to withdraw or surrender the application or registration, and ratifies any act done by the appointee in respect of the application or subsequent registration.

Signed at
this day of, 20

.....
.....

Signature(s)

FORM 4

INDUSTRIAL DESIGNS ACT, 2005

Registration No.:

Date:

*Certificate Of Registration Of An Industrial Design
The Commerce And Intellectual Property Office
Saint Vincent And The Grenadines*

Whereas a request has been made to the Commerce and Intellectual Property Office for registration of an Industrial Design, particulars of which are attached hereto, and whereas such request has been found to comply with the Industrial Designs Act, 2005, now therefore be it known that said registration has taken place, granting to the owner all the benefits of the Industrial Designs Act. The term of protection afforded by the registration is five years from the day of, 20.....

Property rights arising from registration are subject to the conditions contained in the Industrial Design Act, and any adjudication of the High Court affecting those rights.

In testimony whereof this document bears the seal of the Commerce and Intellectual Property Office affixed to it at Kingstown.

Sealed this day of in the year

.....
Registrar

Commerce and Intellectual Property Office

FORM 5

INDUSTRIAL DESIGNS ACT, 2005

Transfer and Assignments of Application for Registration

I/We
(name(s) and address(es))

.....
.....
the owner(s) of an application for registration of a design for
filed on do hereby transfer all my (our) rights in said design to

.....
(name(s) and address(es), indicate also nationalities, residences and any necessary address for service)

Signed at
on this day of in the year

SECOND SCHEDULE, FORM 5—continued

by

(Signature of owner, agent or legal representative)

and at

on this day of in the year

by

(Signature of new owner or his agent or legal representative)

The prescribed fee of \$ for recording this transfer is submitted herewith

Name and address of new owner's representative for service

Note.—This form may be modified to make a partial transfer by specifying what is transferred.

FORM 6

INDUSTRIAL DESIGNS ACT, 2005

Transfer and Assignments of a registered Design

I/We

.....

.....

(name(s) and address(es))

the registered owner(s) of Industrial Design No. for a design for

..... registered on

do hereby transfer all my (our) rights in said design to

.....

(name(s) and address(es) indicate also nationalities, residences and any necessary address for service)

Signed at

(place)

on this day of in the year

by

(Signature of owner, agent or legal representative)

and at

on this day of in the year

by

(Signature of new owner or his agent or legal representative)

The prescribed fee of \$ for recording this transfer is submitted herewith, and we

request that the transfer be registered.

SECOND SCHEDULE, FORM 6—continued

Name and address of new owner’s agent

(Name and address of new owner’s representative for service)

Note.—This form may be modified to make a partial transfer by specifying what is transferred.

FORM 7

INDUSTRIAL DESIGNS ACT, 2005

Change of Name

I/We

(name(s) and address(es))

the owner(s) of the application for registration of an industrial design or the registered design identified below wish to have recorded a change in name to

(name(s) and address(es))

The prescribed fee of \$ for registering the change of name is submitted herewith
Registration No.

Date registered

Date application filed

Title of design

Signed at

on this day of in the year

by

(Owner or Agent)

FORM 8

INDUSTRIAL DESIGNS ACT, 2005

Renewal of Registration of an Industrial Design

(UNDER SECTION 10(1) OF THE ACT)

I/We
.....
.....

(name(s) and address(es))

the registered owner(s) of the Industrial Design No.hereby forward the prescribed fee for the renewal of the said Design in accordance with section 10(1) or (3) of the Act.

Note.—This form must be submitted in duplicate.

FORM 9

INDUSTRIAL DESIGNS ACT, 2005

Request for Certificate of the Registrar in Relation to an Entry, Matter or Thing

In the matter of¹ the Industrial Designs Act, 2005

I/We
.....
.....

(name(s) and address(es))

hereby request the Registrar to furnish me (us) with²

Dated this day of 20.....

3

4

To the Registrar
Commerce and Intellectual Property Office
Kingstown

Notes.—

1. These words may be altered to suit other circumstances.
2. Here set out the particulars that the Registrar is requested to certify.
3. Signatures.
4. Address.