

S.I. 89 of 2014

INDUSTRIAL PROPERTY ACT, 2014

(Act 7 of 2014)

Industrial Property (Marks) Regulations, 2014

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S.I. 89 of 2014**INDUSTRIAL PROPERTY ACT, 2014***(Act 7 of 2014)***Industrial Property (Marks) 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 —

1. These regulations may be cited as the Industrial Property (Marks) 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 under Schedule 1 appended to these regulations.

3.(1) The fees to be paid under these regulations shall be as provided under column (3) of Schedule 2 to these regulations for a service mentioned under column (2) of that Schedule.

Fees and classification of goods and services

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

(3) The application for registration of a mark may relate to goods or services of any one class of the international classification set out in the Schedule 3.

Application
for registration
of a mark

4. The application for the registration of a mark under section 67 of the Act shall be made in Form M-1 together with the fee specified in Schedule 1.

Formal and
language of a
mark

5.(1) Where a mark consists of letters, words, numerals or punctuation signs and no special graphic features are claimed—

- (a) the said elements may be reproduced by means of equipment such as typewriter or computer in the appropriate space provided in the Form; and
- (b) one copy of the representation of any other two-dimensional mark shall be affixed to the appropriate space provided in the Form.

(2) Where the particular mark is three-dimensional, the application shall contain an indication to that effect and the representation shall comprise at least two aspects of the mark sufficient to illustrate the shape and features of the mark and a copy of the representation shall be affixed in the appropriate space provided on the Form.

(3) Where the mark consists of words other than English, a translation of such words into English shall accompany the application.

(4) Where any translation is accompanied with the application, the translation shall be certified by the translator as correct by a sworn declaration made in writing.

Size of mark

6.(1) Where the copy of the representation to be affixed in the appropriate space provided in the Form is larger than that

space, it may be affixed on a separate sheet of paper of A4 size and appended to the Form.

(2) The representation of a mark shall not exceed 10 centimeters by 10 centimeters.

7.(1) The applicant may at any time by notice in writing to the Registrar withdraw the application or reduce the list of goods or services covered in the application.

Withdrawal
and amending
the application

(2) The Registrar shall acknowledge the application and amend the application, accordingly.

8.(1) The applicant claiming a right of priority under section 68(1) of the Act shall make the declaration to that effect in the application.

Right of
priority

(2) The Registrar may require the applicant to furnish within 3 months, a copy of the earlier application filed by the applicant as referred to in section 68(1) of the Act, certified in English as correct by the office with which it was filed.

(3) When the application is made within the period of priority provided in section 68(3) of the Act, the filing in Seychelles of that application before the expiration of the period of priority shall not be invalidated on the ground of —

- (a) any acts accomplished in the interval;
- (b) in particular, filing of another application for the mark; and
- (c) the publication or exploitation of the mark.

(4) The ground specified in subregulation (3) shall not give rise to any third-party right or any right of personal possession of the mark.

(5) Where the application does not comply with section 68 of the Act or these regulations, the Registrar shall have the power to determine that the declaration for priority has not been made, after giving in writing to the applicant an opportunity of being heard.

Exhibition
priority

9.(1) The applicant claiming an exhibition priority under section 69 of the Act shall —

- (a) make a declaration along with the application that the applicant is seeking exhibition priority;
- (b) within 3 months of filing the application, furnish the Registrar with evidence of the first display of the goods or services under the mark applied for; and
- (c) provide certified documentary evidence of the official or officially recognised exhibition in which the goods or services under the mark applied for were displayed giving dates of such exhibition.

(2) Where exhibition priority has been claimed, the date of the first display of the goods and services under the mark applied for may be regarded by the Registrar as the filing date of the application for registration of the mark.

Examination

10. Any notice of non compliance of the requirements referred to in section 71(2) of the Act shall be made in Form M-2 requiring the applicant to make the required corrections within the period specified in section 71(2) of the Act.

Objection

11.(1) Any interested person making objection against the registration under section 72(1) of the Act may make the objection in Form M-3 to be signed by the interested person or his or her duly appointed agent together with the fee specified in Schedule 2.

(2) The interested person shall —

- (a) state his or her name, nationality giving the passport number and address;
- (b) detail his or her objection on the grounds that one or more of the requirements of sections 2 and 66 of the Act or these regulations have not been fulfilled;
- (c) provide, if necessary, any supporting documents or other evidence; and
- (d) duly sign the objection.

12. The Registrar, on being satisfied that the provisions of section 74(1)(a) and (b) of the Act are fulfilled, shall —

Registration of
mark and
issuance of a
certificate

- (a) register the mark (clearly stating the type);
- (b) record if it was granted under priority;
- (c) issue to the applicant a certificate of registration upon payment of the fee specified in Schedule 2; and
- (d) publish in the *Gazette* a reference to the registration, as soon as possible.

13. The Registrar shall keep and maintain a Register of Marks in which the following particulars shall be recorded in respect of each mark registered —

Register of
Marks

- (a) the name and address of owner and any duly appointed agent of the owner of the registered mark;
- (b) the reference to the date and number of the *Gazette* in which the registration was published; and

- (c) any change in the name or the address of the registered owner.

Renewal of registration of marks

14.(1) An application for renewal of the registration of a mark may be made to the Registrar, in the Form M-4 together with the fee specified in Schedule 2, by the registered owner or his or her duly appointed agent.

(2) In case the request for renewal of the registration is made and the renewal fee is paid after the date on which the renewal is due, a penalty of a sum specified in Schedule 2 shall be paid.

(3) Every renewal of the registration of mark shall be published in the *Gazette* as soon as practicable.

Registration of collective marks and certification marks

15.(1) The application for the registration of a collective mark or certification mark under section 82 or 83 respectively of the Act shall be made in Form M-1 together with the fee specified in Schedule 2.

(2) The application for registration of a collective mark or certification mark shall designate the mark as a collective mark or certification mark as the case may be and shall be accompanied by a copy of the terms and conditions governing its use.

(3) Any changes effected in the conditions governing the use of a collective mark or certification mark shall be notified to the Registrar in writing signed by the registered owner of such mark or his or her duly appointed agent and shall be accompanied with the fee specified in Schedule 2.

Recording of assignment of a registered mark

16.(1) The owner of a registered mark who has assigned the registered mark under section 85(1) of the Act may make an application, in Form M-5 to the Registrar together with the fee specified in Schedule 2, for recording in the Register of Marks the details of the assignment.

(2) The Registrar shall, on receipt of the application for recording of the details of the assignment of the registered mark, record the details in the Register of Marks and notify the applicant in writing.

17.(1) The owner of a registered mark who has entered into a licensing contract in accordance with section 86 of the Act may make an application in the Form M-5 to the Registrar for recording of the licensing contract of a registered mark together with the fee specified in Schedule 2.

Recording of
licensing
contract of a
mark

(2) The Registrar shall, on receipt of the application for recording of the licensing contract of a registered mark or collective mark, record the details in the Register of Marks and notify the applicant in writing.

18. Any person may inspect the Register of Marks or records and files of the Registrar with respect to the registration of a mark and may obtain extract therefrom, by submitting an application in Form M-6 along with a fee specified in Schedule 2.

Inspection

19.(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.

20. In case of any infringement of the marks, any action may be brought in accordance with sections 107 to 120 of the Act.

Infringement

SCHEDULE 1**FORMS***(Regulation 2)***FORM M-1***[Regulation 4 and 15(1)]*

<p>INDUSTRIAL PROPERTY ACT, 2014</p> <p>Industrial Property (Marks) Regulations, 2014</p> <p>APPLICATION FOR REGISTRATION OF MARKS/COLLECTIVE MARKS/ CERTIFICATION MARKS</p> <p>FORM M-1</p>	<p>For official use only:</p> <p>Application received on:</p> <p>Fee paid on:</p> <p>Application no:</p> <p>Vienna Code, where applicable:</p>
<p>The applicant hereby requests that the accompanying mark be registered in respect of the particulars given herein below.</p> <p>I. APPLICANT:</p> <p>Name:</p> <p>Address:</p> <p>Telephone:</p> <p>Fax:</p> <p>E-mail:</p> <p>II. REPRESENTATION OF THE MARK</p> <p>(Not more than 10cm x 10 cm in size. Provide extra five copies. If representation of the mark is affixed to a separate sheet (A4) indicate accordingly)</p> <p>III. TRANSLATION OF THE MARK, IF APPLICABLE</p> <p>(certified by a sworn translator where the mark consists of a word or words not in English)</p> <p>IV. CLAIM OF COLOURS OF THE MARK, IF APPLICABLE</p> <p>The applicant claims for his mark the colours shown in the representation of the mark accompanying this application. The colours represented in the claim are.....</p> <p>V. CLAIM TO THREE-</p> <p>The applicant claims for the mark the shape/container shown in</p>	

DIMENSIONAL MARK	the representation of the mark accompanying this application. The shape/container represented in the claim is.....
VI. CLASS AND LIST OF GOODS OR SERVICES IN RESPECT OF WHICH THE REGISTRATION OF THE MARK IS SOUGHT
Class	
List of goods or services	
VII. CLAIMS OF PRIORITY – UNDER INTERNATIONAL CONVENTIONS	The applicant claims the priority of an earlier application filed on.....according to the attached request.
VIII. CLAIM FOR DATE OF APPLICATION ON THE BASIS OF AN INTERNATIONAL EXHIBITION	The applicant claims that this application be deemed to be filed on..... according to the attached request.
IX. Address for service in Seychelles, where applicable.	
X. AGENT, IF ANY	
Name	
Address	
Telephone/Fax/E-mail.	
XI. Collective Mark/Certificate Mark (if applicable)	The application is made for a collective/certification mark. A copy of the conditions governing the use of the mark duly certified is annexed.
XII. SIGNATURE OF THE APPLICANT (if the applicant is a company, the authorized signature and the company seal) OR THE AGENT AND THE DATE.	

FORM M-2
[Regulation 10]

INDUSTRIAL PROPERTY ACT, 2014
Industrial Property (Marks) Regulations, 2014

FORM M-02

NOTICE OF NON-COMPLETION OF REQUIREMENTS UNDER SECTION 70

Date:.....
Application No:.....
To:.....
.....
.....

NOTICE is hereby given under the provisions of section 70 of the Industrial Property Act, 2014 that the registration of the mark/collective mark/certification mark applied for under the above-mentioned number on &&&&(date) does not fulfil the requirements as stated below:
applicant.

Unless the required formalities are completed within three months from the date of this notice, the said application will be treated as abandoned.

For the Registrar General

FORM M-3
[Regulation 11(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014</p> <p>Industrial Property (Marks) Regulations, 2014</p> <p>NOTICE OF OBJECTION TO REGISTRATION</p> <p>FORM M-3</p>	<p>For official use only:</p> <p>Notice received on:</p> <p>Fee paid on:</p> <p>Application no:</p>
<p>The notice of objection is hereby given to the registration of mark as described below.</p> <p>OBJECTOR</p>	

<p>Name</p> <p>Address</p> <p>Telephone/Fax/E-mail</p> <p>THE OPPOSED APPLICATION</p> <p>Application No.</p> <p>Date and No of the Gazette Notification</p> <p>Grounds of Objection and required evidence</p> <p>(add extra papers where necessary)</p> <p>ADDRESS FOR SERVICE IN SEYCHELLES (if applicable)</p> <p>AGENT</p> <p>Name</p> <p>Address</p> <p>Telephone/Fax/E-mail</p> <p>Date:</p> <p style="text-align: right; margin-top: 20px;">..... SIGNATURE OF THE OBJECTOR/AGENT</p>
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FORM M-4
[Regulation 14(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014</p> <p>Industrial Property (Marks) Regulations, 2014</p> <p>APPLICATION FOR RENEWAL OF REGISTRATION</p> <p>FORM M-4</p>	<p>For official use only:</p> <p>Date received on:</p> <p>Fee paid on:</p>
<p>Registered number:</p> <p>Class</p>	
<p>Registered owner</p> <p>Date of application for registration</p> <p>Agent, if any</p> <p>Removed goods or services from the list, if any</p> <p>Fees paid (including penalty, if applicable)</p> <p>Date and Signature of the registered owner/agent</p>	

FORM M-5

[Regulation 16(1) and 17(1)]

<p>INDUSTRIAL PROPERTY ACT, 2014 Industrial Property (Marks) Regulations, 2014 APPLICATION FOR RECORDING OF ASSIGNMENT, etc. OR LICENCE CONTRACT FORM M-5</p>	<p>For official use only: Date of Registration: Fees paid No:</p>
<p style="text-align: center;">IDENTIFICATION OF THE APPLICATION/MARK</p> <p>Application/Registration No. Filing date: Applicant/owner of the mark: Name: Address APPLICATION FOR RECORDING ASSIGNMENT OR LICENCE CONTRACT The undersigned hereby applies for the recording of the assignment/licence contract (or the particulars of the licence contract) of the above-identified application/mark.</p> <p>New Applicant/Owner/Licensee Name: Address: Postal Address for service, if applicable: Telephone: Fax: E-mail:</p>	
<p>A copy of the deed of assignment/contract accompanies this application. A copy of the licence contract or the particulars to be recorded is annexed.</p> <p>Signature of Applicant/Owner/Agent. Place and date: Signature of New Owner/Licensee/Agent Place and date: Agent: Name: Address Telephone: Fax: E-mail:</p>	

FORM M-6

[Regulation 18]

<p>INDUSTRIAL PROPERTY ACT, 2014 Industrial Property (Marks) Regulations, 2014 FORM M-6 REQUEST FOR INSPECTION OF THE REGISTER OF MARKS 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:</p> <p>Address:</p> <p>Tele/Fax/E-mail</p> <p>Name of the owner of the Marks</p> <p>Marks Number being sought</p> <p>Date and No of Gazette Notification</p> <p>Details of the Marks inspection or extract thereof being sought (Add extra papers where necessary)</p> <p>Addresses for service in Seychelles (if applicable)</p> <p>Agent</p> <p>Name</p> <p>Address</p> <p>Tele/Fax/E-mail</p> <p>Date</p> <p style="text-align: right;">..... Signature of the Applicant/Agent.</p>	

SCHEDULE 2
[Regulation 3(1)]
FEES PAYABLE

Serial number.	Mark matters in respect of which fee is charged	Fees in Seychelles Rupees
(1)	(2)	(3)
1	Application for registration of each— (a) Mark — (i) individual applicant (ii) Others (b) Collective mark (c) Certification mark	 1000 500 3000 3000
2.	Additional fee where application contains declaration claiming right of priority to be paid along with the fee stated at serial no. 1 above	500
	Additional fee where application contains declaration claiming exhibition priority to be paid along with the fee stated at serial no. 1 above	500
3.	Notice of opposition for registration of mark	1000
4.	Issue of certificate of registration	500
5.	Upon each entry in the register of a note that mark is associated with a newly registered mark	100
6.	Application to register a subsequent owner/applicant in cases of assignment or transmission — (a) For a single mark (b) For every additional mark, the devolution being identical in each case and if made in one application	 1000 200
7.	Application to change the name or address of owner/applicant where there has been no alteration of ownership — (a) For a single mark (b) For every additional mark, the change being the same in each case and if made in one application	 500 200
8.	(a) Renewal of registration of a mark — (i) individual owner (ii) Others	 1000 500

	(b) Renewal of collective and certification mark	2000
	(c) Penalty, when renewal fee is paid after due date	500
9.	Application to alter the address of registered owner or the licensee—	
	(a) For a single mark	500
	(b) For every additional mark, the alteration being the same in each case and if made in one application	200
10.	Application for change of terms and conditions governing the use of a mark or collective mark or certification mark	500
11.	Application for inspection of register or record	200
12.	Application for obtaining copies of extract from register or documents relating to marks —	
	(a) A4 size page or part thereof	200
	(b) Each additional page or part of thereof	100
13.	Application for recording of detailed of assignment of marks or licence contract	200
14	Application for correction	300

SCHEDULE 3

[Regulation 3]

CLASSIFICATIONS OF GOODS AND SERVICES

Class

GOODS

1. Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.
2. Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.
5. Pharmaceutical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.
6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.
7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; automatic vending machines.
8. Hand tools and implements (hand-operated); cutlery; side arms; razors.
9. Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus.
10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials.

11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
12. Vehicles; apparatus for locomotion by land, air or water.
13. Firearms; ammunition and projectiles; explosives; fireworks.
14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.
15. Musical instruments.
16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); printers' type; printing blocks.
17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.
18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas and parasols; walking sticks; whips, harness and saddlery.
19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.
20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.
21. Household or kitchen utensils and containers; combs and sponges; brushes

- (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.
22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.
 23. Yarns and threads, for textile use.
 24. Textiles and textile goods, not included in other classes; bed covers; table covers.
 25. Clothing, footwear, headgear.
 26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.
 27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).
 28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.
 29. Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk and milk products; edible oils and fats.
 30. Coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; flour and preparations made from cereals; bread, pastry and confectionery; ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.
 31. Grains and agricultural, horticultural and forestry products not included in other classes; live animals; fresh fruits and vegetables; seeds; natural plants and flowers; foodstuffs for animals; malt.
 32. Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.

33. Alcoholic beverages (except beers).
34. Tobacco; smokers' articles; matches.

SERVICES

35. Advertising; business management; business administration; office functions.
36. Insurance; financial affairs; monetary affairs; real estate affairs.
37. Building construction; repair; installation services.
38. Telecommunications.
39. Transport; packaging and storage of goods; travel arrangement.
40. Treatment of materials.
41. Education; providing of training; entertainment; sporting and cultural activities.
42. Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.
43. Services for providing food and drink; temporary accommodation.
44. Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.
45. Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

MADE this 20th day of October, 2014.

**JAMES A. MICHEL
PRESIDENT**
