

LEGAL NOTICE NO 50

THE INDUSTRIAL PROPERTY REGULATIONS, 2002

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THE INDUSTRIAL PROPERTY ACT, 2001
(No. 3 of 2001)

IN EXERCISE of the powers conferred by section 119 of the Industrial Property Act, 2001, the Minister for Trade and Industry makes the following regulations —

THE INDUSTRIAL PROPERTY REGULATIONS,
2002

PART I - PRELIMINARY

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| Citation and commencement. | 1. These Regulations may be cited as the Industrial Property Regulations, 2002 and shall come into operation on 1 st May, 2002. |
| Forms. | 2. The forms referred to in these Regulations are the forms set out in the First Schedule. |
| Fees. | 3. (1) The fees set out in the Second Schedule shall be the prescribed fees for purposes of these Regulations.

(2) If, for a fee, a corresponding form is referred to in the First Schedule, the fee is payable when the form is used, unless the Act or these Regulations provide for the fee to be payable at another time.

(3) A fee paid in error may be refunded. |

PART II - ADMINISTRATION

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| Training, competitions and awards. | 4. In carrying out its functions under paragraphs (c) and (d) of section 5 of the Act, the Institute shall —
(a) organise and conduct training relating to industrial property matters at all levels in Kenya, in collaboration or association with other relevant institutions, if necessary; |
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- and
(b) organise competitions and contests and award trophies and awards.

Client deposit accounts.

5. (1) The Institute shall have one or more separate banking accounts for funds that the Institute receives to be held temporarily for other persons.

(2) All funds described in paragraph (1) shall be paid into an account required under that paragraph.

Office hours of the Institute.

6. The offices of the Institute and the records and documents kept by the Managing Director shall be open to the public each day, other than on a Saturday, Sunday or public holiday, from 9 a.m. to 1 p.m. and from 2 p.m. to 4 p.m.

Publications of the Institute.

7. (1) This Regulation applies with respect to publications of the Institute.

(2) The Institute shall publish a journal to be called “The Industrial Property Journal”.

(3) Unless the Managing Director otherwise directs, the Industrial Property Journal shall be published monthly.

(4) The Institute shall publish, from time to time, reports of cases relating to industrial property rights including decisions by the Tribunal or a court or other body, whether in Kenya or elsewhere.

(5) The Institute may publish such other documents as it considers appropriate.

(6) The Institute may provide for the sale of any of its publications.

Appointment of advisors, etc.

8. (1) The Managing Director may appoint a person to act as an advisor in relation to a proceeding or to perform any other function specified by the Managing Director.

(2) Paragraph (1) does not authorize the Managing Director to make an appointment that the Board is authorized to make under section 12 of the Act.

PART III - PATENTS: PATENTABILITY

Certain notices, etc. in writing.

9. The following shall be in writing —

- (a) a notification or notice under section 27 of the Act;
- (b) directions or instructions under section 27 of the Act; and
- (c) the report referred to in section 27(5)(b) of the Act.

Request for authority.

10. A request for written authority referred to in section 28(1) of the Act shall be in Form IP 1.

Patents relating to living matter.

11. (1) This Regulation applies with respect to section 29 of the Act.

(2) The following are depository institutions for the purposes of section 29(1)(a) of the Act —

- (a) the Kenya Agricultural Research Institute; and
- (b) the Kenya Medical Research Institute.

(3) The Managing Director shall, on request, issue a certificate certifying that a person has a right to inspect the files for the purposes of section 29(3) of the Act if the Managing Director is satisfied that the person has such a right.

(4) A request for a certificate under paragraph (3)

shall be in Form IP 2.

(5) A person to whom a deposited culture is made available under section 29(3) of the Act shall not do any of the following until the application is refused or withdrawn or, if a patent is granted, until after the patent ceases to have effect —

- (a) make the culture available to any other person; or
- (b) use the culture other than for experimental purposes.

(6) Paragraph (5)(b) does not apply with respect to anything done for the service of the Government by the Government or a person authorized in writing by the Government.

(7) A person who contravenes paragraph (5) is guilty of an offence and is liable, on conviction, to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

PART IV - APPLICATION, GRANT AND REFUSAL OF PATENT

Request.

12. (1) This Regulation applies with respect to a request referred to in section 34(1)(a) of the Act.

(2) The request shall be in Form IP 3.

(3) The following data concerning the applicant, inventor or agent is prescribed for the purposes of section 34(3) of the Act —

- (a) for the applicant, the applicant's name, address, nationality and country of residence;
- (b) for the inventor, the inventor's name and

- address; and
- (c) for the agent, the agent's name and address.

(4) If there is more than one applicant, the request shall set out, in addition to an address for each applicant, a single address at which all the applicants can be contacted.

(5) The following apply with respect to names of persons set out in the request —

- (a) if the person is a natural person, the person's family name shall be set out first followed by the given names; and
- (b) if the person is not a natural person, the full name of the person shall be set out.

(6) The following apply with respect to addresses of persons set out in the request —

- (a) the address shall be sufficient to allow prompt postal delivery; and
- (b) only one address shall be set out for each person, except as required under paragraph (4).

(7) The title of the invention, required under section 34(3) of the Act, shall be short and precise.

(8) The statement justifying the applicant's right to the patent, required under section 34(3) of the Act if the applicant is not the inventor, shall be in Form IP 4.

(9) The request shall be accompanied by an extra copy of the statement referred to in paragraph (8) for the inventor, or if there is more than one inventor, for each inventor.

(10) The request shall not include anything that is not provided for in Form IP 3 or that is not required or allowed under the Act or these Regulations.

(11) The Managing Director shall require the applicant to delete anything included contrary to paragraph (10).

Description.

13. (1) This Regulation applies with respect to a description referred to in section 34(1)(b) of the Act.

(2) In addition to the requirements under section 34(5) of the Act, the description shall —

- (a) state the title of the invention;
- (b) specify the technical field to which the invention relates;
- (c) indicate the background art which, as far as it is known to the applicant, can be regarded as useful for the understanding, searching and examination of the invention; and
- (d) indicate how the invention is industrially applicable.

Claims.

14. (1) This Regulation applies with respect to claims referred to in section 34(1)(c) of the Act.

(2) In defining, under section 34(6) of the Act, the matter for which protection is sought, a claim shall set out —

- (a) the technical features that are necessary to define the subject matter of the invention but that are part of the prior art; and
- (b) the technical features that, in combination with the features referred to in subparagraph (a), define that for which protection is sought.

- (3) The features set out in the claim under paragraph (2)(b) shall be preceded by the words “characterized in that”, “characterized by”, “wherein the improvement comprises” or any other words to the same effect.
- (4) A technical feature set out in a claim shall not rely on a reference to the description or drawings but a reference to a feature may be included in parentheses if the intelligibility of the claim can be increased by doing so.
- (5) The reference to a feature included under paragraph (4) shall be deemed to be included only for convenience.
- (6) A claim shall not include a drawing.
- (7) If more than one claim is included in the application, the claims shall be numbered consecutively in Arabic numerals.
- (8) An application may include two or more independent claims if each independent claim relates to a single product or a single process.
- (9) An application may include a claim stating the essential technical features of an invention with one or more following claims setting out particular embodiments of the invention.
- (10) The following apply to claims described in paragraph (9) —
- (a) the claims setting out particular embodiments of the invention shall include a reference to the claim stating the essential technical features of the invention;
 - (b) the claims setting out particular

- embodiments of the invention shall state the features that it is desired that those claims protect; and
- (c) the claims shall be grouped together to the extent possible and in the most appropriate way.

(11) If more than ten claims are included in the application, the application fee shall be increased by the excess claims fee payable for each of the claims in excess of ten.

Drawings.

15. (1) This Regulation applies with respect to drawings referred to in section 34(1)(d) of the Act.

(2) The sheets of paper that drawings appear on shall comply with the following —

- (a) the minimum margins shall be as follows —
- (i) top margin, 2.5 centimetres;
 - (ii) left margin, 2.5 centimetres;
 - (iii) right margin, 1.5 centimetres; and
 - (iv) bottom margin, 1.0 centimetres;
- (b) the area within the margins shall not exceed 26.2 centimetres by 17 centimetres; and
- (c) there shall not be a frame around the area of the sheet that is used or useable.

(3) The drawings shall comply with the following —

- (a) the drawings shall not be coloured;
- (b) the lines of the drawings shall be black, durable, uniformly thick and well-defined and shall be drawn with the aid of drafting instruments;
- (c) the drawings, including their scale and the distinctness of their lines, shall be such that all details can be distinguished

- without difficulty when the drawings are reproduced photographically at two thirds their actual size;
- (d) if the scale is given on a drawing, it shall be given graphically;
 - (e) cross sections shall be indicated by hatching that does not impede the clear reading of the reference signs and reading lines;
 - (f) all numbers, letters and other references signs shall be at least .32 centimetres high and shall be circled or within brackets or inverted commas;
 - (g) if the drawings show a feature mentioned in the description, that feature shall be denoted in the drawings by a reference sign and that reference sign shall be used throughout the application to denote that feature;
 - (h) except as required under subparagraph (g), no feature shall be denoted in the drawings by a reference sign;
 - (i) the lettering on drawings shall use the Latin alphabet or, where customary, the Greek alphabet;
 - (j) the different figures in the drawings shall be numbered consecutively in Arabic numerals independently of the numbering of the sheets on which the drawings appear; and
 - (k) the drawings shall not include text other than single words or phrases.

Abstract.

16. (1) This Regulation applies with respect to an abstract referred to in section 34(1)(e) of the Act.

- (2) The abstract shall include —
- (a) the title of the invention; and
 - (b) a summary of the disclosure included in

the description under section 34(5) of the Act.

(3) The summary required under paragraph (2)(b) shall indicate the technical field to which the invention relates and the principal use or uses of the invention.

(4) The abstract shall be drafted in a way that it can be used efficiently for searching in the relevant technical field and so that it is possible for a reader to assess, from the abstract, whether the description should be consulted.

(5) The abstract shall not include statements about the merits or value of the invention or about uses that are speculative.

(6) If applicable, the abstract shall include the formula that best characterizes the invention.

(7) The abstract shall not include a drawing, but if the application includes drawings —

- (a) the applicant shall indicate which drawing the applicant suggests should accompany the publication of the abstract; and
- (b) a feature referred to in the abstract shall, if the feature is illustrated in a drawing, be followed, in the abstract, by the reference sign used in the drawing.

(8) Unless it is impractical, the abstract shall not contain more than one hundred and fifty words.

General
requirements.

17. (1) This Regulation sets out general requirements for an application under section 34 of the Act.

(2) All parts of the application shall be in English.

- (3) All pages of the application shall be on durable white paper with a matt finish of the size known as A4 paper (29.7 centimetres by 21 centimetres).
- (4) Each page of the application shall be oriented with the short side at the top.
- (5) Each page of the application, other than the request and the drawings, shall have margins as follows —
- (a) top margin, 2.0 centimetres;
 - (b) left margin, 2.5 centimetres;
 - (c) right margin, 2.0 centimetres; and
 - (d) bottom margin, 2.0 centimetres.
- (6) The margins shall be completely blank.
- (7) Only one side of each page of the application, other than the request, shall be used.
- (8) The pages of the application shall be bound so that they can be easily separated and rejoined.
- (9) The pages of the application shall be free of cracks, creases and folds.
- (10) Each of the following shall start on a new page —
- (a) the request;
 - (b) the description;
 - (c) the claim or claims;
 - (d) the drawing or drawings; and
 - (e) the abstract.
- (11) The application shall be in triplicate.
- (12) Each of the following shall be numbered as a separate series, using Arabic numerals with the

numbers centred at the top of the sheets but not in the top margin —

- (a) the request;
- (b) the description, claims and abstract; and
- (c) the drawings.

(13) Every fifth line of the description and the claims shall be numbered with the number appearing to the left of the line but not in the margin.

(14) All parts of the application, other than the drawings and the request, shall be typed or printed rather than hand-written and the following apply to the appearance of the text —

- (a) the text shall be dark and indelible;
- (b) the line spacing of the text shall be at least one and one half; and
- (c) the capital letters shall be at least .20 centimetres high.

(15) All parts of the application must be prepared so that they are legible when they are photocopied or otherwise reproduced.

(16) Notwithstanding paragraph (14), graphic symbols and characters, and chemical and mathematical formulae may be hand-written but must be dark and indelible.

(17) The request may be hand-written, typed or printed but the text must be dark and indelible.

(18) All parts of the application shall be reasonably free of over-writings, insertions between lines, deletions or other alterations.

(19) All terms, signs and symbols used in the application shall be used consistently throughout

the application and shall be the terms, signs and symbols generally accepted in the relevant field.

(20) If anything is expressed in units other than metric units the equivalent in metric units shall also be given.

Provisional specification.

18. (1) In this Regulation, “specification” means the description, claims, drawings and abstract.

(2) An application may be filed with a provisional specification.

(3) The following apply if an application is filed with a provisional specification —

- (a) unless the applicant files a final specification within one year after the application is filed, the application shall be deemed to have been withdrawn;
- (b) the Managing Director shall take no steps with respect to the application until the final specification is filed, except under section 41(1) to (3) of the Act;
- (c) the final specification shall be filed using Form IP 3;
- (d) the final specification shall not go beyond the disclosure in the provisional specification; and
- (e) the filing of the final specification shall not affect the filing date accorded under section 41 of the Act.

Unity of invention.

19. (1) For the purposes of section 35 of the Act, a group of inventions forms a single general inventive concept if there exists between or among those inventions a technical relationship that involves one or more of the same or corresponding special technical features.

(2) In paragraph (1), “special technical features”

means those technical features that define a contribution that each of the claimed inventions, considered as a whole, makes over the prior art.

Amendment or
division.

20. (1) This section applies with respect to an amendment or division of an application under section 36 of the Act.

(2) A request for amendment or division of an application shall be in Form IP 5.

(3) If the request is to amend a name, address or other contact information, the request shall be in Form IP 6.

(4) The Managing Director may require proof that it is appropriate to make the requested amendment to a name, address or other contact information.

(5) The following apply with respect to an amendment —

- (a) the amendment shall be in the form of a letter of explanation and pages to replace pages of the application;
- (b) the letter of explanation shall draw attention to the differences between any new pages and the pages being replaced; and
- (c) the letter of explanation shall specify any pages that are to be removed from the application without being replaced.

(6) If an application is divided under section 36(2) of the Act —

- (a) the filing date for each divisional application shall be the filing date of the initial application;
- (b) any declaration of priority in the initial application shall be deemed to be included

- (c) in each divisional application; and the applicant shall pay the application fee and any other fees payable in respect of the additional applications resulting from the division.

Declaration
claiming priority.

21. (1) This Regulation applies with respect to a declaration, referred to in section 37(1) of the Act, claiming the priority, as provided for in the Paris Convention, of one or more earlier national, regional or international applications.

- (2) The declaration shall include, in respect of each earlier application —
 - (a) the date and number of the earlier application;
 - (b) the symbol of the international patent classification that was assigned to the earlier application or, if no such symbol has been assigned, a statement of that fact;
 - (c) if the earlier application was a national application, the name of the state in which it was filed; and
 - (d) if the earlier application was a regional or international application, the name of the office in which it was filed and the name of the state for which it was filed.

(3) If the number of the earlier application, as required under paragraph (2)(a), is not known at the time of making the declaration, a statement of that fact shall be included in the declaration and the declaration shall be amended to include the number within ninety days after the application containing the declaration is made.

(4) A certified copy of the earlier application required by the Managing Director under section 37(2) of the Act shall be furnished within ninety

days after the requirement was made.

(5) If it is discovered that the date given to the earlier application was incorrect, the following apply —

- (a) the Managing Director shall invite the applicant to provide the correct date; and
- (b) the Managing Director shall disregard the claim for priority unless the applicant provides the correct date within ninety days after the date of the invitation to provide the correct date and that correct date is within the period of priority provided under the Paris Convention.

Waiver of fees.

22. (1) This Regulation applies with respect to a waiver of fees under section 39(2) of the Act.

(2) The Board may waive fees under section 39(2) of the Act, in whole or in part, for a natural person who is unable to pay the fees.

(3) A request for a waiver by the Board shall be submitted to the Managing Director in writing.

(4) The payment of any fees for which a waiver is sought shall be deferred pending the decision by the Board.

(5) The Managing Director shall communicate the Board's decision to the applicant and any deferred fees that have not been waived shall be paid within 60 days after the date of that communication.

Withdrawal of application.

23. (1) A withdrawal of an application under section 40 of the Act shall be in writing.

(2) If there is more than one applicant, the

application may only be withdrawn by all of the applicants.

Filing date and examination.

24. (1) This Regulation prescribes the details of the requirements and procedure under section 41 of the Act.

(2) The following apply with respect to an invitation referred to in section 41(2) of the Act —

- (a) the invitation shall be given within fourteen days after the Managing Director makes the finding referred to in section 41(2) of the Act; and
- (b) the invitation shall indicate that the applicant has until sixty days after the date of the invitation to comply with the invitation.

(3) If the Managing Director determines that the applicant has not complied with an invitation referred to in section 41(2) of the Act and, as a result, treats the application as if it had not been filed under section 41(3) of the Act, the Managing Director shall, within fourteen days after his determination, inform the applicant of the reasons for that determination.

(4) The following apply with respect to an invitation referred to in section 41(8) of the Act —

- (a) the invitation shall indicate that the applicant has until ninety days after the date of the invitation to remedy the defects;
- (b) the ninety day period may be extended by the Managing Director for a period not exceeding sixty days; and
- (c) a request for an extension under subparagraph (b) shall be in Form IP 7.

(5) If the Managing Director accords a filing date to the application under section 41 of the Act, the Managing Director shall send the applicant a certificate of filing, which shall be a copy of the request with the filing date and number marked on it.

Publication of application, s. 42 of the Act.

25. (1) This Regulation applies with respect to the publication of a patent application under section 42 of the Act.

(2) Before the patent application is published, the applicant shall pay the publication fee.

(3) The following are the particulars to be published to effect the publication of a patent application under section 42(3) of the Act —

- (a) the application number;
- (b) the name and address of the applicant;
- (c) the name and address of the inventor unless he has indicated that he wishes not to be named in the application under section 33 of the Act;
- (d) the name and address of the agent, if any;
- (e) the filing date of the application;
- (f) if priority is claimed, the priority date and the name of the state in which or for which the earlier application was filed;
- (g) the symbol of the international patent classification;
- (h) the title of the invention;
- (i) the abstract; and
- (j) if applicable, the drawing the applicant suggested, under Regulation 16(7)(a), should accompany the publication of the abstract or, another drawing, if the Managing Director decides it would better characterize the invention.

Confidentiality of application before publication.

26. (1) The Managing Director shall ensure that information about a patent application is kept confidential until the application is published.

(2) Paragraph (1) does not apply to the following —

- (a) the application number;
- (b) the name of the applicant;
- (c) the filing date of the application;
- (d) if priority is claimed, the priority date and the name of the state in which or for which the earlier application was filed and the number of the earlier application; and
- (e) the title of the invention.

International-type search.

27. (1) This Regulation prescribes the details of the requirements and procedure under section 43 of the Act.

(2) Within thirty days after receiving a report on an international-type search, the Managing Director shall send a copy of the report to the applicant.

(3) The time limit, referred to in section 43(3) of the Act, for the applicant to furnish a requested copy of a document, is ninety days after the date of the request.

(4) If an applicant has a lawful reason under section 43(3) of the Act for not furnishing a requested copy of a document, the applicant shall inform the Managing Director of that reason within ninety days after the date of the request.

(5) If the Managing Director rejects an application under subsection (2), (3), (4) or (5) of section 43 of the Act, the Managing Director shall, within thirty days after doing so, send the applicant a

notice of the rejection.

(6) The time limit for appealing to the Tribunal against a decision by which the Managing Director rejects an application under subsection (2), (3), (4) or (5) of section 43 of the Act is ninety days after the date of the notice of the rejection.

Examination as to substance, s. 44 of the Act.

28. (1) This Regulation prescribes the details of the requirements and procedure under section 44 of the Act.

(2) A request for an examination of an application, submitted under section 44(2) of the Act, shall be in Form IP 8.

(3) If an application is withdrawn after a request for an examination has been submitted but before the examination has begun, the fee paid with the request shall be refunded.

(4) The following are relevant documents for the purposes of section 44(4) of the Act —

- (a) the report of any search;
- (b) if priority is claimed, foreign documents relating to the invention; and
- (c) any other document the Managing Director considers relevant.

(5) The following apply with respect to the submission of the copy of the report of the findings of the examination by the Managing Director to the applicant under section 44(4) of the Act —

- (a) the Managing Director shall submit the copy within thirty days after the report is submitted to the Managing Director; and
- (b) the Managing Director shall include with the copy an explanation of whether or not

the invention is patentable.

(6) The following apply with respect to an invitation referred to in section 44(7) of the Act —

- (a) the invitation shall indicate that the applicant has until sixty days after the date of the invitation to remedy the defects;
- (b) the sixty day period may be extended by the Managing Director for a period not exceeding ninety days; and
- (c) a request for an extension under subparagraph (b) shall be in Form IP 7.

(7) A notification by the Managing Director under section 44(8) of the Act of a refusal of a grant of a patent shall include written reasons for the refusal.

Grant of patent, s.
45 of the Act.

29. (1) This Regulation applies with respect to a patent granted under section 45 of the Act.

(2) Before a patent is granted, the applicant shall pay the grant fee.

(3) The patent shall be in Form IP 9 with a copy of the description, claims and drawings attached.

(4) When a patent is issued, a certificate of a grant of a patent in Form IP 10 shall also be issued.

(5) The patent shall be published under section 45(2) of the Act by publishing the following particulars in the Kenya Gazette or in the Industrial Property Journal —

- (a) the number of the patent;
- (b) the name and address of the owner of the patent;
- (c) the name and address of the inventor

- unless he has indicated that he wishes not to be named in the application under section 33 of the Act;
- (d) the name and address of the agent, if any;
 - (e) the filing date of the application;
 - (f) if priority was claimed and accepted, a statement of the priority, the priority date and the name of the state in which or for which the earlier application was filed;
 - (g) the date of the grant of the patent;
 - (h) the symbol of the international patent classification;
 - (i) the title of the invention;
 - (j) the abstract; and
 - (k) if there are drawings, the most illustrative drawing.

Register of patents,
s. 46 of the Act.

30. (1) This Regulation prescribes the details concerning the patent register under section 46 of the Act.

- (2) The following shall be included in the patent register for each application for a patent —
- (a) the application number and the filing date of the application;
 - (b) the name and address of the applicant;
 - (c) the title of the invention;
 - (d) the name and address of the inventor unless he has indicated that he wishes not to be named in the application under section 33 of the Act;
 - (e) if priority is claimed, the priority date and the name of the state in which or for which the earlier application was filed;
 - (f) the date of the request for an examination submitted under section 44(2) of the Act;
 - (g) the publication date of the application;
 - (h) the address for service of the applicant;
 - (i) a notice of every document effecting a change in ownership of the application or

- purporting to give the application or an interest in it as security;
- (j) if the applicant dies, a notice of that fact; and
- (k) any other information required under the Act or these Regulations or that the Managing Director considers appropriate.

(3) The following shall be included in the patent register for each patent —

- (a) the information included, under paragraph (2), for the application for the patent;
- (b) the number of the patent;
- (c) the name and address of the owner of the patent;
- (d) the date of the grant of the patent;
- (e) the address for service of the owner;
- (f) a notice of every document effecting a change in ownership of the patent or purporting to give the patent or an interest in it as security;
- (g) a notice of every document effecting a change in ownership of a licence or purporting to give a licence or an interest in it as security;
- (h) if the owner of the patent dies, a notice of that fact; and
- (i) any other information required under the Act or these Regulations or that the Managing Director considers appropriate.

(4) A person who wishes to obtain an extract from the patent register shall make a request in Form IP 11 for a certified copy or in Form IP 12 for an uncertified copy.

PART V - INTERNATIONAL AND REGIONAL APPLICATIONS

Filing requirements for international or regional application.

31. (1) This Regulation applies with respect to the following applications —

- (a) an international application filed with the Institute as the receiving office under the Patent Co-operation Treaty; or
- (b) a regional application filed with the Institute under section 2 of the ARIPO Protocol.

(2) An application described in paragraph (1) —

- (a) shall be in triplicate;
- (b) shall be in English; and
- (c) shall be accompanied by the transmittal fee.

Entry of international application to national phase.

32. (1) An international application in which Kenya is designated shall, on request, be treated as an application under the Act if the conditions set out in Article 22 or 39 of the Patent Co-operation Treaty and the applicable rules under that Treaty are satisfied.

(2) A request under paragraph (1) shall be in Form IP 13.

Conversion of refused international application.

33. (1) An international application in which Kenya is designated shall, on request, be treated as an application under the Act if a refusal, declaration or finding described in Article 25 of the Patent Co-operation Treaty was made and the refusal, declaration or finding was the result of an error or omission on the part of the receiving Office or the International Bureau.

(2) A request under paragraph (1) shall be in Form IP 14 and shall be accompanied by a statement of the facts upon which the applicant relies.

(3) The date of filing, for the purposes of the treatment of an international application as a

national application, shall be the date of filing of the international application under the Patent Cooperation Treaty.

Conversion of refused regional application.

34. (1) A regional application in which Kenya is designated and that has been refused by the Secretariat of ARIPO shall, on request, be treated as an application under the Act if the Secretariat of ARIPO transmits to the Institute —

- (a) a request made by the applicant to the Secretariat of ARIPO that the application be treated, in Kenya, as an application under Kenyan law; and
- (b) a copy of the files relating to the application.

(2) A request to have a regional application treated as an application under the Act shall be in Form IP 15.

(3) The date of filing, for the purposes of the treatment of a regional application as a national application, shall be the date of filing of the regional application under the ARIPO Protocol.

Publication of certain international and regional applications.

35. (1) The Managing Director shall publish —

- (a) an international application in which Kenya is designated within two months after the application enters the national phase; and
- (b) a regional application in which Kenya is designated within two months after Kenya is notified of being designated in the regional application under the ARIPO Protocol.

(2) The publication of an application under paragraph (1) shall be in the Kenya Gazette or in the Industrial Property Journal.

PART VI - RIGHTS AND OBLIGATIONS OF THE APPLICANT OR THE OWNER OF THE INVENTION

Clarification of application to new use.

36. For greater certainty, section 54(1)(b) of the Act applies with respect to a patent that has been granted in respect to a new use as though the new use were a process.

“Parallel importation”.

37. The limitation on the rights under a patent in section 58(2) of the Act extends to acts in respect of articles that are imported from a country where the articles were legitimately put on the market.

PART VII - ANNUAL FEES

Annual fees.

38. (1) This Regulation applies with respect to annual fees under section 61 of the Act.

(2) A fee shall be paid by submitting the fee along with Form IP 16.

(3) At least one month before a fee is due, the Managing Director shall send a reminder that the fee is due to the applicant or the owner of the patent.

(4) A fee paid after it was due but within the grace period granted under section 61(2) of the Act shall be paid by submitting it along with —

(a) the form required under paragraph (2); and

(b) the prescribed surcharge.

(5) If, under section 61(3) of the Act, an application is deemed to have been withdrawn or a patent lapses, the Managing Director shall send a notification to the persons specified in paragraph (6), within thirty days after the

application is deemed to have been withdrawn or the patent lapses.

(6) A notification under paragraph (5) shall be sent to the following persons —

- (a) the applicant or owner of the patent; and
- (b) every registered licensee.

(7) The following apply with respect to a request under section 61(5) of the Act to restore an application or patent —

- (a) the request shall be in Form IP 17 and shall be accompanied by a statutory declaration or affidavit supporting the statements made in the request;
- (b) if after considering the request, the Managing Director is not satisfied that the failure to pay the annual fee was not intended, the Managing Director shall notify the person who made the request;
- (c) the person notified under subparagraph (b) may request a hearing with the Managing Director within sixty days after the date of the notification and, if the person does so, the Managing Director shall hear the person before finally deciding whether or not the Managing Director is satisfied, under section 61(6) of the Act, that the failure to pay the annual fee was not intended; and
- (d) if the Director makes an order restoring the application or patent —
 - (i) paragraph (4) applies with respect to the payment of the annual fee under section 61(6) of the Act; and
 - (ii) the Managing Director shall advertise the restoration of the application or patent in the Kenya Gazette or in the Industrial

Property Journal.

(8) If an application or patent has lapsed and the time for making a request under section 61(5) of the Act to restore the application or patent has expired without a request being made or a request was made but was denied, the Managing Director shall, within forty-five days after the time expired or the request was denied, notify the applicant or owner of the lapse and draw their attention to the provisions of section 61(3) of the Act.

(9) There is no fee for the first year following the date of filing of the application.

(10) For an international application, the only annual fees that are payable are those due after the application enters the national phase.

PART VIII - CHANGE IN OWNERSHIP

Change of ownership of application or patent.

39. (1) This Regulation applies with respect to section 62 of the Act.

(2) An application to have a change of ownership recorded in the patent register shall be in Form IP 18.

(3) An application to have a change of ownership recorded may be made by the former owner or the new owner.

(4) A copy of the following shall accompany the application —

- (a) the instrument effecting the change in ownership; or
- (b) a certificate issued by a competent authority of the change in ownership.

- (5) When a change in ownership is recorded in the patent register the Managing Director shall —
- (a) issue a certificate of the registration of a change in ownership, in Form IP 19, to the new owner; and
 - (b) publish, in the Kenya Gazette or in the Industrial Property Journal, the following information —
 - (i) the date of the application to have the change of ownership recorded;
 - (ii) the name of the former owner;
 - (iii) the name of the new owner; and
 - (iv) the registration number and date of registration of the change in ownership.

(6) The Managing Director shall ensure that the instrument described in paragraph (4)(a), and its contents, is kept confidential except to the extent that the new owner agrees otherwise.

(7) If the ownership of an application is changed, the new owner shall be deemed to be the applicant.

PART IX - CONTRACTUAL LICENCES

Petition to register
licence contracts, s.
68 of the Act.

40. (1) This Regulation applies with respect to petitions for registration of licence contracts or modifications to licence contracts in the patent register under section 68 of the Act.

(2) A petition shall be in Form IP 20.

(3) The following are prescribed as documents that shall accompany the petition under section 68(2) of the Act —

- (a) the documents constituting the contract; and

- (b) any documents relating to the contract that are necessary to understand or interpret the contract.

Registration of contracts.

41. (1) This Regulation applies with respect to licence contracts registered under section 70 of the Act.

(2) The certificate of registration under section 70(1) of the Act shall be in Form IP 21.

(3) In addition to the information required under section 70(5) of the Act, the following shall be set out in the patent register —

- (a) the addresses of the persons referred to in section 70(5)(a) of the Act;
- (b) the date the registration takes effect;
- (c) the duration of the contract; and
- (d) if the contract was submitted for registration by an agent, the name and address of the agent.

(4) The additional information set out in paragraph (3) shall be published along with the information that is required to be published under section 70(5) of the Act.

(5) The information required to be published under section 70(5) of the Act shall be published by the Managing Director.

Licences as of right.

42. (1) This Regulation applies with respect to entries in the patent register under section 79 of the Act to the effect that licences are to be available as of right.

(2) A request under section 79(1) of the Act to have an entry made shall be in Form IP 22.

(3) The request shall be accompanied by an undertaking of the owner to grant licences under

section 79 of the Act.

(4) When the Managing Director notifies the licensees of the request under section 79(2) of the Act he shall also notify them of their right to object under section 79(3) of the Act.

(5) The period within which a licensee may object under section 79(3) of the Act is 45 days after the date of the Managing Director's notification to the licensee of the request.

(6) A licensee may object under section 79(3) of the Act by giving a notice of opposition in Form IP 23 in duplicate to the Managing Director.

(7) Paragraphs (3) to (20) of Regulation 49 apply, with necessary modifications, with respect to an objection under section 79(3) of the Act.

(8) The publication of an entry under section 79(4) of the Act shall be in the Kenya Gazette or in the Industrial Property Journal.

(9) A request under section 79(7) of the Act to cancel an entry shall be in Form IP 24.

(10) The publication of a cancellation under section 79(7) of the Act shall be in the Kenya Gazette or in the Industrial Property Journal.

PART X - EXPLOITATION BY GOVERNMENT

Exploitation by
Government.

43. (1) This Regulation applies with respect to section 80 of the Act.

(2) An application to the Minister for an order under section 80(1) of the Act shall be in Form IP 25.

(3) A request under section 80(7) of the Act to have an order revoked shall be in writing.

PART XI - UTILITY MODELS

Application of Regulations to utility models.

44. (1) Subject to paragraph (2), these Regulations apply, with necessary modifications, with respect to utility model certificates as though these Regulations referred to utility model certificates instead of to patents.

(2) Regulations 27, 28, 29(3) and (4) and 31 to 35 do not apply with respect to utility model certificates.

(3) A utility model certificate shall be in Form IP 26.

PART XII - INDUSTRIAL DESIGNS

Register of industrial designs.

45. (1) The Managing Director shall maintain a register of industrial designs for the registration of industrial designs under Part XIII of the Act.

(2) For each registered industrial design, the following shall be recorded in the register of industrial designs —

- (a) the registration number of the industrial design;
- (b) the name and address of the owner of the industrial design;
- (c) the title of the industrial design;
- (d) any disclaimer by the applicant limiting the rights conferred by registration; and
- (e) any other information required under these Regulations or that the Managing Director considers appropriate.

(3) A person who wishes to obtain an extract from

the register of industrial designs shall make a request in Form IP 11 for a certified copy or in Form IP 12 for an uncertified copy.

Copyrighted
designs not
registerable.
No. 12 of 2001.

46. An industrial design is not registerable if it is protected under the Copyright Act.

Application.

47. (1) This Regulation applies with respect to an application to register an industrial design under section 87 of the Act.

(2) The application under section 87(1)(a) of the Act shall be in Form IP 27.

(3) Subject to paragraph (4), there shall be a separate application for each article embodying the industrial design.

(4) There may be a single application for a set of articles embodying the industrial design if the articles in the set are intended to be used together.

(5) The application shall be accompanied by —
(a) an additional copy of the representations required under section 87(1)(c) of the Act;
and
(b) a second specimen in addition to the specimen required under section 87(2) of the Act.

(6) The application, representations and all documents provided with them shall be on paper of a size known as A4 paper (29.7 centimetres by 21 centimetres) with a weight of at least 80 grams per square metre and each page shall have a left hand margin of approximately 2.5 centimetres.

(7) The following apply with respect to the representations required under section 87(1)(c) of

the Act —

- (a) if the application is for a set of articles the representations shall include representations of each article in the set embodying the industrial design;
- (b) figures used in the representations shall be in an upright position, unless the Managing Director is satisfied that it is impractical to do so;
- (c) if more than one figure is used to represent an article, all the figures representing the same article shall, unless it is impractical to do so, appear on the same page and shall be labelled to indicate the view they represent;
- (d) if the representations are drawings they shall be in ink;
- (e) if the industrial design consists of a repeating surface pattern, the representation shall show all of the pattern that is repeated;
- (f) only one side of each page of the representations shall be used;
- (g) the name of the applicant shall be set out in the top left hand corner of each page; and
- (h) the pages shall be numbered and the page number and the total number of pages shall be set out in the top right hand corner of each page.

(8) A statement describing the features of the design which it is claimed are new shall be included on —

- (a) the representations required under section 87(1)(c) of the Act; and
- (b) the specimen required under section 87(2) of the Act.

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(9) If the design includes a reproduction of arms registered under the College of Arms Act or a specified emblem within the meaning of that Act, the application shall be accompanied by the consent to the registration of the reproduction of the arms or specified emblem from such person as appears to the Managing Director to be entitled to give such consent.

(10) The following apply if the design includes the name or portrait of a person —

- (a) if the person is living, the application shall be accompanied by the consent of the person to the registration; or
- (b) if the person is dead, the Managing Director may require the application to be accompanied by the consent of such person as the Managing Director considers appropriate.

(11) Regulations 21 and 24(2), (3) and (5) apply, with necessary modifications, with respect to the application, under section 87(7) of the Act, of sections 37 and 41(2) and (3) of the Act.

Publication of application.

48. (1) The Managing Director shall publish a notice of an application to register an industrial design in the Kenya Gazette or in the Industrial Property Journal.

(2) Before the notice is published, the applicant shall pay the publication fee.

Procedure if opposition to application.

49. (1) This Regulation applies with respect to opposition to an application to register an industrial design under section 87 of the Act.

(2) Within 60 days after the notice of the application is published a person may oppose the application by giving a notice of opposition in

Form IP 23 in duplicate to the Managing Director.

- (3) The notice of opposition shall set out the grounds for opposing the application.
- (4) The Managing Director shall give one copy of the notice of opposition to the applicant.
- (5) Within 42 days after receiving the notice of opposition, the applicant shall give a counter-statement in Form IP 28 in duplicate to the Managing Director.
- (6) The counter-statement shall set out the grounds the applicant relies upon to support the application and shall set out any facts alleged in the notice of opposition that the applicant admits.
- (7) The Managing Director shall give one copy of the counter-statement to the person opposing the application.
- (8) Within 42 days after receiving the counter-statement, the person opposing the application shall give to the Managing Director and to the applicant a statutory declaration or affidavit supporting the opposition to the application.
- (9) Within 42 days after receiving the statutory declaration or affidavit of the person opposing the application, the applicant shall give to the Managing Director and to the person opposing the application a statutory declaration or affidavit supporting the application.
- (10) Within one month after receiving the statutory declaration or affidavit of the applicant, the person opposing the application may give to the Managing Director and to the applicant a

statutory declaration or affidavit replying to the applicant's statutory declaration or affidavit.

(11) A statutory declaration or affidavit replying to the applicant's statutory declaration or affidavit shall be confined to matters strictly in reply.

(12) If the applicant fails to provide a counter-statement under paragraph (5) or a statutory declaration or affidavit under paragraph (9), the application shall be deemed to have been withdrawn.

(13) If the person opposing the application fails to provide a statutory declaration or affidavit under paragraph (8), the opposition to the application shall be deemed to have been withdrawn.

(14) After all documents have been provided the Managing Director shall conduct a hearing of the matter.

(15) The Managing Director shall give at least 14 days notice of the hearing to each party.

(16) A party may be heard at the hearing only if the party provides the Managing Director with a notice in Form IP 29 at least seven days before the date of the hearing.

(17) At the hearing no evidence other than the evidence provided by statutory declaration or affidavit may be introduced without the leave of the Managing Director.

(18) The Managing Director shall give each party a written notice of his decision together with written reasons.

(19) If there is more than one person opposing the application the Managing Director may provide for the objections to be dealt with at the same hearing.

(20) A party may appeal the Managing Director's decision to the Tribunal within ninety days after the date of the notification of the decision.

Procedure if no opposition to application.

50. (1) This Regulation applies if there is no opposition to an application to register an industrial design under section 87 of the Act.

(2) If the Managing Director proposes to reject the application, the Managing Director shall send a written notice to the applicant explaining the reasons for proposing to refuse to register the industrial design and inviting the applicant to do one of the following within sixty days after the date of the invitation —

- (a) submit written submissions; or
- (b) request a hearing.

(3) If the Managing Director has sent a notice under paragraph (2), the Managing Director shall not make his decision as to whether or not to register the industrial design until —

- (a) if the applicant requests a hearing, after holding the hearing;
- (b) if the applicant submits observations, after considering the observations; or
- (c) if the applicant does not request a hearing or submit observations, after the expiry of the sixty day period referred to in paragraph (2).

(4) The Managing Director shall notify the applicant in writing of his decision.

(5) If the Managing Director decides to refuse to register the industrial design, the applicant may, within thirty days after the date of the notification of the decision, request that the Managing Director provide written reasons for his decision.

(6) A request under paragraph (5) shall be in Form IP 30.

(7) The Managing Director shall comply with a request under paragraph (5) within forty-five days after the request is made.

(8) The applicant may appeal the Managing Director's decision to the Tribunal within ninety days after —

- (a) the date of the notification of the decision; or
- (b) if written reasons are requested, the date of the reasons.

Registration of industrial design.

51. (1) This Regulation applies with respect to section 87(8) of the Act.

(2) Before an industrial design is registered under section 87(8) of the Act, the applicant shall pay the registration fee.

(3) A certificate of registration issued under section 87(8) of the Act shall be in Form IP 31.

Duration and renewal of registration.

52. (1) This Regulation applies with respect to section 88 of the Act.

(2) At least ninety days before the expiry of the registration of an industrial design, the Managing Director shall send a reminder of the impending expiry to the owner.

(3) An application for a renewal under section 88(2) of the Act shall be in Form IP 32.

(4) If a registration is renewed, the Managing Director shall register the renewal and issue a certificate of renewal.

Restoration of
lapsed right.

53. (1) This Regulation applies with respect to section 89 of the Act.

(2) An application for restoration of the protection granted to an industrial design under section 89(1) of the Act shall be in Form IP 33.

(3) The application shall be accompanied by a statutory declaration or affidavit supporting the application and by an application for renewal in Form IP 32.

(4) Before rejecting an application, the Managing Director shall send a written notice to the applicant explaining the reasons for proposing to reject the application and inviting the applicant to request a hearing within sixty days after the date of the invitation.

(5) If the Managing Director sends a notice under paragraph (4), the Managing Director shall not make his decision as to whether to restore the design or reject the application until —

- (a) if the applicant requests a hearing, after holding the hearing; or
- (b) if the applicant does not request a hearing, after the expiry of the sixty day period referred to in paragraph (4).

(6) The Managing Director shall notify the applicant in writing of his decision and, if the Managing Director decides to reject the

application, the notification shall include written reasons for his decision.

(7) The applicant may appeal the Managing Director's decision to the Tribunal within ninety days after the date of the notification of the decision.

(8) Publication of a restored design under section 89(5) of the Act shall be in the Kenya Gazette or in the Industrial Property Journal.

Request to examine representations, etc.

54. A request to examine representations or specimens under section 90(2) of the Act shall be in Form IP 34.

Publication relating to registration.

55. The publication under section 91(1) of the Act relating to a registration shall be in the Kenya Gazette or in the Industrial Property Journal.

Application of regulations under s. 93(2) of the Act.

56. Regulations 39, 40 and 41 apply, with necessary modifications, with respect to the application, under section 93(2) of the Act, of sections 62, 68 and 70 of the Act.

PART XIII - REGISTRATION OF TECHNOVATION CERTIFICATES

Form of certificate.

57. A technovation certificate shall be in Form IP 35.

Register of technovation certificates.

58. (1) The Managing Director shall maintain a register of technovation certificates for the registration of technovation certificates under Part XIV of the Act.

(2) For each registered technovation certificate, the following shall be recorded in the register of technovation certificates —

- (a) the registration number of the technovation certificate;
- (b) the name and address of the technovator;

- (c) the date of the request for registration;
- (d) the name and address of the enterprise that issued the technovation certificate;
- (e) the title of the technovation;
- (f) the technical field to which the technovation relates; and
- (g) any other information that the Managing Director considers appropriate.

(3) The Managing Director shall ensure that the register of technovation certificates is kept confidential.

Application for registration.

59. (1) A technovator may apply to the Managing Director to have his technovation certificate registered.

(2) An application under paragraph (1) shall be in Form IP 36.

(3) The application shall be accompanied by a certified copy of the technovation certificate.

Certificate of registration.

60. Upon registration of a technovation certificate the Managing Director shall issue a certificate of that registration in Form IP 37.

PART XIV - SURRENDER

Surrender.

61. (1) This Regulation applies with respect to the surrender of a patent, utility model or industrial design registration certificate under section 102 of the Act.

(2) A surrender shall be in Form IP 38.

(3) The publication of a surrender under section 102(3) of the Act shall be in the Kenya Gazette or in the Industrial Property Journal.

PART XV - AGENTS

Representation by agent.

- 62.** (1) A person may be represented by an agent in respect of a matter if —
- (a) an appointment of the agent in respect of the matter has been filed with the Managing Director; and
 - (b) the agent is admitted to practice before the Institute.
- (2) An appointment of an agent shall be in Form IP 39.
- (3) Unless the Managing Director otherwise directs, if a person is represented by an agent —
- (a) the agent may attend upon the Managing Director in place of the person; and
 - (b) the agent may sign any document under this Act on behalf of the person.

Admission to practice as agent.

- 63.** (1) The Managing Director may admit a person to practice before the Institute as an agent if the person resides in, and is a citizen of, Kenya and —
- (a) the person is an advocate practising in Kenya; or
 - (b) the person has a university degree in science or a technical field and is conversant with industrial property matters.
- (2) An application for admission to practice before the Institute shall be in Form IP 40.
- (3) The Managing Director shall maintain a register in which the persons admitted to practice before the Institute are recorded.

Annual fees for admitted persons.

- 64.** (1) Each person admitted to practice before the Institute shall pay an annual fee to maintain his admission.

(2) No annual fee is required for the first year of admission.

(3) A person's admission expires on the anniversary of his admission unless the annual fee for the upcoming year has been paid.

(4) An annual fee shall be paid by submitting the fee along with Form IP 41.

Advocates Act
restrictions
preserved.
Cap 16

65. Nothing in this Part allows an agent to do anything that he would be prohibited from doing under the Advocates Act.

Revocation of
admission to
practice.

66. The Managing Director may revoke a person's admission to practice before the Institute if —

- (a) the person has been convicted of an offence under any Act; or
- (b) the person has been found to be guilty of misconduct by a competent authority.

Offence, acting as
agent without
admission.

67. A person who purports to act as an agent under the Act without being admitted to practice before the Institute is guilty of an offence and is liable, on conviction, to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

PART XVI - GENERAL AND MISCELLANEOUS PROVISIONS

Copies of
documents.

68. A person who wishes to obtain a copy of a document kept by the Institute shall make a request in Form IP 11 for a certified copy or in Form IP 12 for an uncertified copy.

Copy of lost or
destroyed
certificate.

69. (1) The Managing Director may issue a copy of one of the following certificates if the certificate is lost or

destroyed —

- (a) a certificate of a grant of a patent;
- (b) a certificate of registration of a change in ownership;
- (c) a certificate of registration of a licence;
- (d) a utility model certificate;
- (e) a certificate of registration of an industrial design; or
- (f) a certificate of registration of a technovation certificate.

(2) A request for a copy of a lost or destroyed certificate shall be in Form IP 42.

(3) A request for a copy of a lost or destroyed certificate shall be accompanied by a statutory declaration or affidavit supporting the assertion that the certificate has been lost or destroyed.

Request for a search.

70. A request to have a search done for an industrial property right shall be in Form IP 43.

Request to amend a name, etc. in a register.

71. A request to amend a name, address or other contact information in a register shall be in Form IP 44.

Caution or notice in a register.

72. A request to have a caution or notice included in or removed from a register shall be in Form IP 45.

Rules for giving notices, etc.

73. (1) A notice or other document that is to be given or sent to, or served on, a person may be given, sent or served —

- (a) by mailing or delivering the notice or document to the address of service provided by the person;
- (b) by giving the notice or document personally to the person or by mailing or delivering the notice or document to the person's residence or place of business or employment; or

- (c) by giving the notice or document personally to the person's agent or by mailing or delivering the notice or document to the agent's place of business.

(2) Proof that a notice or other document was given, sent or served shall be in Form IP 46.

(3) A notice or document that is mailed shall be deemed to have been given, sent or served on the day the notice or document would be delivered in the ordinary course of post.

Opportunity to be heard.

74. Before exercising a power or making a decision the Managing Director may give a person who would be adversely affected an opportunity to be heard.

Hearings, particular provisions.

75. The following apply with respect to a hearing before the Managing Director —

- (a) at the hearing the Managing Director may allow oral evidence and shall allow the cross examination of a person on his statutory declaration or affidavit;
- (b) the Managing Director may, on such terms as he may specify, allow a document to be amended or a procedural irregularity to be rectified;
- (c) the Managing Director may, on such terms as he may specify, dispense with or modify any requirement to do anything, including a requirement to provide a document;
- (d) the Managing Director may require a party to pay all or part of the costs of another party and determine how the costs are to be determined and how they are to be paid; and
- (e) the Managing Director may require a party to give security for costs that the party may be required to pay under subparagraph (d).

- Extensions of time. **76.** The Managing Director may extend the time for doing an act or taking a proceeding, other than a time expressly provided in the Act, on such conditions as he may specify.
- Signing of forms on behalf of certain bodies. **77.** (1) A form that is required to be signed on behalf of a corporation shall, unless it is signed by an agent, be signed by a director of the corporation or the secretary of the corporation.
- (2) The following apply if a form is required to be signed on behalf of a partnership —
- (a) unless the form is signed by an agent, the form shall be signed by a partner or by a person who satisfies the Managing Director that the person is authorized by the partnership to sign on its behalf; and
 - (b) the form shall set out the names of the partners in full.
- Statutory declarations and affidavits. **78.** The following apply with respect to a statutory declaration or affidavit under the Act or these regulations —
- (a) the statutory declaration or affidavit shall have a heading indicating the matter or matters to which it relates;
 - (b) the statutory declaration or affidavit shall be divided into consecutively numbered paragraphs, each of which shall, if possible, be confined to a single subject-matter; and
 - (c) the statutory declaration or affidavit shall fully identify the person making it and shall set out where the person resides.
- Documents in English or translated. **79.** (1) Documents provided to the Managing Director shall be in English.

- (2) If a copy of a document that is not in English is required to be provided to the Managing Director the following apply —
- (a) an English translation of the document shall be provided along with the copy of the document;
 - (b) the translation shall be certified to be an accurate translation;
 - (c) if more than one copy of the document is required, one copy of the translation shall be provided for every copy of the document required;
 - (d) if the Managing Director believes the translation is not accurate the Managing Director may refuse it and require an accurate translation; and
 - (e) the copy of the document shall be deemed not to have been provided until the required translation and copies are provided.

Repeal of former regulations.

80. The Industrial Property Regulations, 1993 are repealed.

Second Schedule (r.3)
Fees

Notes:

1. A foreign fee is payable if the person paying the fee or on whose behalf the fee is being paid does not reside in Kenya and does not have a principal place of business in Kenya.

PART A - GENERAL FEES

Description of fee	Local Fee KSh	Foreign Fee US\$	Corres- ponding form
1. Fee for a request for written authority under s. 28(1) of the Act	1,000	N/A	1
2. Fee for a request for certificate that person has right to inspect files	1,000	50	2
3. Fee for application for a patent			
With a provisional specification	1,000	50	3
With a final specification	3,000	150	3
4. Excess claims fee, for each claim in excess of ten (see Regulation 14(11))	100	20	3
5. Fee for filing a final specification	3,000	150	3
6. Fee for a request for amendment or division of an application	2,000	100	5
7. Fee for request for amendment of application to change name, address or other contact information	1,000	50	6
8. Fee for a request for extension of time	1,000	50	7
9. Fee for publication of patent application (see Regulation 25)	3,000	150	N/A
10. Fee for a request for a substantive examination	5,000	250	8
11. Fee for grant of a patent (see Regulation 29)	3,000	150	N/A
12. Fee for a request for a certified copy	2,000	100	11
13. Fee for a request for an uncertified copy	500	50	12
14. Transmittal fee (see Regulation 31)	5,000	250	N/A
Plus actual cost of transmittal			

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15. Fee for request to have an international application treated as an application under the Act (refused application)	3,000	150	13
16. Fee for request to have an international application treated as an application under the Act (entry into national phase)	3,000	150	14
17. Fee for request to have a regional application treated as an application under the Act (refused application)	3,000	150	15
18. Annual fee for an application or patent:			
For 2nd year	2,000	300	16
For 3rd year	2,000	300	16
For 4th year	2,000	300	16
For 5th year	2,000	300	16
For 6th year	2,000	300	16
For 7th year	2,000	300	16
For 8th year	6,000	300	16
For 9th year	7,000	350	16
For 10th year	8,000	400	16
For 11th year	10,000	500	16
For 12th year	12,000	600	16
For 13th year	14,000	700	16
For 14th year	16,000	800	16
For 15th year	18,000	900	16
For 16th year	20,000	1,000	16
For 17th year	30,000	1,500	16
For 18th year	35,000	1,750	16
For 19th year	40,000	2,000	16
For 20th year	50,000	2,500	16
19. Surcharge under s. 61(2) of the Act	3,000	150	16
20. Fee for a request to restore an application or patent	6,000	300	17
21. Fee for an application to have a change of ownership recorded in the register:			
For a change effected by a contract assigning the application or patent	7,000	350	18
For a change effected in any other way	5,000	250	18
22. Fee for a petition for registration of a licence contract or modification to a registered licence contract	30,000	1,500	20

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23. Fee for a request for an entry that licences are to be available as of right	1,000	50	22
24. Fee for notice of opposition to an entry that licences are to be available as of right	5,000	250	23
25. Fee for a request for a cancellation of an entry that licences are to be available as of right	3,000	150	24
26. Fee to convert patent application into application for utility model certificate under section 83(1) of the Act	500	50	N/A
27. Fee to convert application for utility model certificate into patent application under section 83(2) of the Act	2,500	150	N/A
28. Fee for an application for registration of an industrial design	3,000	150	27
29. Publication fee for notice of application to register an industrial design (see Regulation 48)	3,000	150	N/A
30. Fee for notice of opposition to an application for registration of an industrial design	5,000	250	23
31. Fee for a counter-statement (in relation to an application for registration of an industrial design or a request for an entry that licences are to be available as of right)	4,000	200	28
32. Fee for a notice to appear at a hearing (in relation to an application for registration of an industrial design or a request for an entry that licences are to be available as of right)	5,000	250	29
33. Fee for a request for reasons for a decision to refuse to register an industrial design	1,000	50	30
34. Fee for registration of an industrial design (see Regulation 51)	1,000	50	N/A
35. Fee for an application for a renewal of an industrial design	10,000	500	32
36. Fee for an application for the restoration of protection granted to an industrial design	2,000	100	33
37. Surcharge under section 88(3) of the Act for late renewal	3,000	150	N/A
38. Fee for a request to examine representations or specimens	1,000	50	34
39. Fee for an application to register a technovation certificate	1,000	(same as local fee)	36
40. Fee for a surrender of a patent or utility model,	1,000	50	38

industrial design certificate			
41. Fee for an appointment of an agent	1,000	50	39
42. Fee for application for admission to practice before the Institute	10,000	500	40
43. Annual fee to maintain admission to practice before the Institute	2,000	100	41
44. Fee for a request for a lost or destroyed certificate	2,000	100	42
45. Fee for a search	2,000	100	43
46. Fee for request for amendment of register to change name, address or other contact information	2,000	100	44
47. Fee for request to have a caution or notice included in or removed from a register	1,000	50	45

PART B - FEES FOR UTILITIES MODELS THAT ARE DIFFERENT FROM FEES IN PART A

Description of fee	Local Fee KSh	Foreign Fee US\$	Corresponding form
1. Fee for application for a utility model certificate			
With a provisional specification	500	50	3
With a final specification	1,000	50	3
2. Fee for filing a final specification	1,000	50	3
3. Fee for a request for amendment or division of an application	500	50	5
4. Fee for request for amendment of application to change name, address or other contact information	500	50	6
5. Fee for a request for extension of time	500	50	7
6. Annual fee for an application for a utility model certificate, after the first year	1,000	50	16
7. Annual fee for a utility model certificate			
Fee due in 1st year after grant	1,000	50	16
Fee due in 2nd year after grant	1,500	75	16
Fee due in 3rd year after grant	2,000	100	16
Fee due in 4th year after grant	2,500	125	16
Fee due in 5th year after grant	3,000	150	16
Fee due in 6th year after grant	3,500	175	16
Fee due in 7th year after grant	4,000	200	16

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Description of fee	Local Fee KSh	Foreign Fee US\$	Corres- ponding form
Fee due in 8th year after grant	4,500	225	16
Fee due in 9th year after grant	5,000	250	16
Fee due in 10th year after grant	5,500	275	16
8. Fee for a request to restore an application or utility model certificate	2,000	100	17
9. Fee for an application to have a change of ownership recorded in the register:			
For a change effected by a contract assigning the application or patent	2,000	100	18
For a change effected in any other way	1,000	50	18