



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 1 June 2018

No. 6616

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### Government Notices

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#### MINISTRY OF INDUSTRIALISATION, TRADE AND SMALL AND MEDIUM ENTERPRISES DEVELOPMENT

No. 113

2018

#### COMMENCEMENT OF INDUSTRIAL PROPERTY ACT, 2012

In terms of section 241 of the Industrial Property Act, 2012 (Act No. 1 of 2012), I determine that the said Act comes into operation on 1 August 2018.

**T. TWEYA**  
**MINISTER OF INDUSTRIALISATION,**  
**TRADE AND SMALL AND MEDIUM**  
**ENTERPRISES DEVELOPMENT**

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Windhoek, 9 April 2018

**MINISTRY OF INDUSTRIALISATION, TRADE AND SMALL  
AND MEDIUM ENTERPRISES DEVELOPMENT**

No. 114

2018

**INDUSTRIAL PROPERTY REGULATIONS:  
INDUSTRIAL PROPERTY ACT, 2012**

Under section 236 of the Industrial Property Act, 2012 (Act No. 1 of 2012) I have –

- (a) made the regulations as set out in Schedule;
- (b) determined that the said regulations come into effect on 1 August 2018; and
- (c) repealed Government Notice No. R2498 of 14 December 1973, as corrected by Government Notice No. R87 of 18 January 1974, and amended by Government Notice No. AG 40 of 15 July 1989 and Government Notice No. 13 of 5 January 2001.

**T. TWEYA**  
**MINISTER OF INDUSTRIALISATION,**  
**TRADE AND SMALL AND MEDIUM**  
**ENTERPRISES DEVELOPMENT**

Windhoek, 9 April 2018

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PART 1  
PRELIMINARY

**Definitions**

**1.** In these Regulations a word or expression to which a meaning has been given in the Act bears that meaning and, unless the context indicates otherwise -

“Administrative Instructions” means the administrative instructions issued by the Registrar under section 237 of the Act;

“applicant” means a person who has applied for the grant or registration of an industrial property right under these regulations;

“appropriate fee”, in relation to any fee required to be paid in terms of the Act or these regulations, means the appropriate fee set out in the relevant part of Annexure 1;

“e-filing” means the internet-based system for filing and maintaining documents and files in the Registration Office as contemplated in regulation 137, and the letter ‘e’ being reference to the word ‘electronic’ as defined;

“electronic” means technology having electrical, digital, magnetic, wireless, optical, electromagnetical or other intangible form or similar capabilities;

“industrial property right” means the right conferred on a person by the grant of a patent or by the registration of a utility model, an industrial design or a trade mark;

“power of attorney” includes any written authorisation, acceptable to the Registrar, given by a person to another person to act on behalf of the person giving the authorisation;

“the Act” means the Industrial Property Act (Act No. 1 of 2012); and

“trade mark” includes a certification and a collective mark.

**Application of certain Parts**

**2.** Subject to necessary changes or modifications that may be required by the context, the provisions of this Part, and of Parts 2, 3, 7, 8 and 9, apply generally to all other parts of these regulations.

PART 2  
REGISTRATION OFFICE

**Location of Registration Office**

**3.** (1) For purposes of the registration of industrial property rights and other matters required to be registered under the Act and these regulations, the Registration Office is situated in Windhoek, but the Board may maintain a branch of the Registration Office at any other place other than Windhoek as the Board may determine.

(2) The Board must make known by notice in any manner which the Board considers appropriate, the physical location and any other contact details of the Registration Office or branch of the Registration Office referred to in subregulation (1).

### **Additional functions of Registration Office**

**4.** In addition to the general functions mentioned in section 3 of the Act, the Registration Office must perform the following functions in relation to industrial property:

- (a) receiving of any application, notice or other document filed or lodged with the Registration Office pursuant to the Act or these regulations;
- (b) research into any matter relating to or connected with industrial property;
- (c) public awareness and promotion of the benefits of industrial property rights;
- (d) training persons in the field of industrial property rights;
- (e) promoting competition among inventors and creators of industrial property;
- (f) where appropriate, giving of awards for innovations;
- (g) public education and advocacy; and
- (h) coordination of national industrial property initiatives.

### **Opening times of Registration Office**

**5.** (1) The Registration Office is open to the public from Mondays to Fridays, except on a day referred to as a public holiday in, or declared to be a public holiday under, the Public Holidays Act, 1990 (Act No. 26 of 1990).

(2) When the last day for doing any act or taking any proceeding falls on a day when the Registration Office is not open to the public for business, it is lawful to do the act or to take the proceeding on the day when the Registration Office is next open for business.

### **Continuation of registers**

**6.** Any register of patents, designs or trade marks which was established by and is being maintained under any of the laws repealed by section 239 of the Act and any regulation made thereunder, subject to such alterations, modifications and changes that may be necessary to give effect to provisions of the Act or these regulations, continues to exist as if it were a register of industrial property contemplated in section 7 of the Act.

### **Consulting register and making of extracts from register**

**7.** (1) Any person may, on request made to the Registrar –

- (a) free of any charge, consult the register; or
- (b) on payment of the appropriate fee, and with the approval of the Registrar, make a copy of extracts from the register.

(2) A request referred to in subregulation (1) must be made in the form and manner determined by the Registrar.

### **Inspection of file and documents filed or lodged with Registration Office**

**8.** (1) Any person may, on request made to the Registrar, and on payment of the appropriate fee -

- (a) inspect the official file containing the information referred to in section 8(1) of the Act;
- (b) with the written consent of the applicant, inspect a file referred to in section 8(2) of the Act;
- (c) make a copy of extracts from the file referred to in paragraph (a) or, with the written consent of the applicant, from a file referred to in paragraph (b).

(2) A request referred to in subregulation (1) must be made in the form and manner determined by the Registrar.

### **Copies or extracts of document or entry open to public inspection**

- 9.** A request for a certified copy of –
- (a) an extract from a register referred to in regulation 7(1)(b); or
  - (b) from a document contained in a file referred to in subregulation 8(1),

must be made in the form and manner determined by the Registrar, and is subject to payment of the appropriate fee.

### **Bulletin of industrial property**

**10.** (1) The Registrar may maintain the bulletin in print or electronic format, as appropriate.

(2) In addition to the matters referred to in section 9 of the Act, there must be published, in accordance with the directions of the Registrar, in the bulletin –

- (a) particulars of industrial property rights and all decisions, proceedings and acts to which the Act and these regulations refer; and
- (b) any other information required to be published under the Act, these regulations or the Administrative Instructions,

within 30 days from the date the decision or the act in question was made final.

(3) Unless the Registrar otherwise directs, the bulletin must be published once every month.

## **PART 3 GENERAL PROVISIONS RELATING TO APPLICATIONS**

### **Fees**

**11.** (1) The fees payable for anything done in terms of the Act or these regulations are set out in Annexure 1 and proof of payment must be indicated on Form G 1.

(2) All such fees are, subject to such conditions as may be imposed by the Registrar, be payable by means of electronic transfer, cash, deposit, postal remittance and in such other manner as the Registrar may direct and provided for in the Administrative Instructions.

(3) Where any fee is paid by way of bank transfer or postal remittance, the applicant or the industrial property right holder must indicate as the reference number on the relevant transmittal document at least the correct application number or the industrial property right number and the name of the fee paid.

(4) If the requirements set out in subregulation (3) are not complied with, the payment of the fee must be considered not to have been made.

(5) Where any fee is paid –

(a) directly to the Registration Office, the date on which the fee is paid is the date of payment;

(b) by way of postal remittance, the date of remittance indicated by the postmark is the date of payment; and

(c) by way of bank transfer, the date on which the transfer of the fee is completed is the date of payment.

(6) Where any fee is paid in excess of the amount as prescribed by these regulations or paid repeatedly or wrongly, the party making the payment may, within 270 days from the date of payment, request a refund from the Registrar, and the Registrar must return the fee.

(7) The applicant must pay the filing fee for filing an application for an industrial property right within 60 days from the filing date, and if the fee is not paid or not paid in full within the time limit, the application must be considered to have been abandoned.

(8) Where the applicant claims priority, the applicant must pay the fee for claiming priority at the same time as the payment of the filing fee, and if the fee is not paid or not paid in full within the time limit, the claim for priority must be considered not to have been made.

(9) Where the applicant makes a request for a re-examination of an application, the appropriate fee applies and must be paid within 60 days of the request, and if the fee is not paid or not paid in full within the time limit, the request must be considered not to have been made.

(10) The fee for requesting restoration of an industrial property right must be paid within 60 days from the date of the request, and if the fee is not paid or not paid in full within the time limit, the request must be considered not to have been made.

(11) The fee for request of extension of a time limit must be paid before the expiration of the relevant time limit, and if the fee is not paid or not paid in full within the time limit, the request must be considered not to have been made.

(12) The fee for a change in the bibliographic data and the fee for a request for the invalidation of an industrial property right must be paid within 30 days from the date on which such request is filed, and if the fee is not paid or not paid in full within the time limit, the request must be considered not to have been made.

(13) Where any applicant or right holder has difficulties in paying the various fees prescribed in these regulations, the applicant may, in accordance with these regulations, submit a written request to the Registrar for a reduction or postponement of the payment explaining the reasons why the applicant is unable to pay.

**Forms**

**12.** (1) The forms referred to in this Part and Parts 7 and 8 are set out in Part A of Annexure 2.

(2) The forms, whether in paper form or in any electronic form authorised by the Registrar for e-filing, must be used substantially in the manner prescribed for those matters to which they apply, but may be modified or amended with the approval of the Registrar, provided that such modifications or amendments do not substantially affect the original version of the form.

(3) The Registrar must make forms available online and furnish paper copies of the forms free of charge to any person.

(4) A requirement under these regulations to use a particular form is satisfied by the use of a copy or replica of that form.

**Language of documents and translations**

**13.** An application made under these regulations must be in the English language, and any document forming part of an application or submitted to the Registration Office pursuant to the Act or these regulations, which is in a language other than English must, be accompanied by a certified English translation.

**Documents**

**14.** A document must be so presented as to permit of direct reproduction by photography, reprography or electronic means, as the case may be, in an unlimited number of copies.

(2) Where paper forms are used, all sheets must be free of cracks, creases and folds.

(3) Only one side of a sheet may be used, except where otherwise specified.

(4) Except where otherwise specified, any application and accompanying documents must be filed in two copies, but the Registrar may require the applicant to supply additional copies.

(5) A document which is not a photocopy of other documents must be on A4 paper, although the Registrar may accept sheets of other sizes.

(6) A document, except drawings accompanying an application for a patent, must be in print form and the print must be in dark, durable colour.

(7) A document, including a drawing, must be reasonably free from erasures and from alterations, overwritings and interlineations and must be legible.

(8) The paper must be strong, pliable, smooth, white, matter and durable or in such electronic form as authorised by the Registrar for e-filing.

(9) Each sheet of paper must be used with its short sides at the top and bottom, except where inappropriate in the case of drawings.

(10) The minimum margins of sheets are as follows:

(a) upper margin of each page, except the first page: 20 mm

(b) upper margin of the first page: 30 mm

- (c) side margin adjacent to the binding: 25 mm
- (d) other side margin: 20 mm
- (e) bottom margin: 20 mm

(11) Every sheet of paper must be numbered at the centre top of the sheet, in consecutive Arabic numerals.

(12) Apart from an application for a patent or the registration of an industrial design or mark, any document relating to an application for a patent or the registration of an industrial design or mark which is submitted to the Registration Office, must, in any of the following circumstances, be considered not to have been submitted -

- (a) where the document does not comply with these regulations;
- (b) where no certifying document is submitted as required by these regulations.

(13) The Registration Office must notify the applicant of its opinion after checking that the document complies with the requirements of these regulations and if the applicant fails to rectify the deficiencies within the time limits specified in these regulations, the application must be considered not to have been submitted.

#### **Indication of name, address, nationality and residence**

**15.** (1) The names of a natural person must be indicated by the person's surname and forename, the surname being indicated before the forename and the name of a legal entity must be indicated by its full, official designation.

(2) Apart from the name –

- (a) a natural person must be identified by means of an identification document or other form of identification which is acceptable to the Registrar; and
- (a) a legal person must be identified by its registration document or other form of identification which is acceptable to the Registrar.

(3) An address must be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, must consist of all the relevant administrative units, including the residential address, if any, telegraphic, telex, email address, and a facsimile number.

(4) Nationality must be indicated by the name of the State of which a person is a national, and a legal entity must indicate the name of the State under whose laws it is constituted and its registered office.

(5) Residency must be indicated by the name of the State of which a person is a resident.

(6) Only one address must be indicated for each applicant, but where several addresses are indicated, only the address mentioned first may be taken into account, except where the applicant designates one of the addresses as an address for service.

**Signatures by partnerships, companies and associations**

**16.** (1) A document purporting to be signed for or on behalf of a partnership must contain the names of all the partners in full and must be signed by all the partners or by any partner qualified to sign, stating that that partner signs on behalf of the partnership, or by any other person who satisfies the Registrar that he or she is authorised to sign the document.

(2) A document purporting to be signed for or on behalf of a body corporate must be signed by a director or by the secretary or by any other principal officer of the body corporate, or by any other person who satisfies the Registrar that he or she is authorised to sign the document and must bear the seal of the body corporate.

(3) A document purporting to be signed for or on behalf of an association of persons or any other legal entity, may be signed by any person who satisfies the Registrar that he or she is duly authorised to sign the document.

(4) The Registrar may, whenever the Registrar considers it necessary, request evidence of authorisation to sign.

**Representation by agent**

**17.** (1) The appointment of an agent as contemplated in section 211 of the Act and these regulations must be by a power of attorney which must be signed by the applicant or, if there are more than one, by each applicant.

(2) The power of attorney appointing an agent may be filed together with the application or within 60 days from the filing date of the application.

(3) If the document is not filed in accordance with subregulation (2), any procedural steps taken by the agent, other than the filing of the application, are considered not to have been taken.

(4) The address of the agent must, for all purposes connected with the Act and these regulations, be treated as the address to which communications to the person or persons who appointed the agent must be transmitted.

**Power of attorney**

**18.** (1) Any agent appointed to act on behalf of any person must file a power of attorney with the Registrar on Form G 2.

(2) On termination of the authority of an agent referred to in subregulation (1), the person concerned may act on his or her own behalf or appoint any other agent to act for him or her and that other agent must file a power of attorney.

(3) The registration of an assignment may not revoke a power of attorney previously given, unless the assignee files a power of attorney in accordance with subregulation (2).

(4) An agent who withdraws from proceedings under the Act or these regulations may do so on notice to the Registrar, and the applicant must notify the Registrar.

(5) On the withdrawal of an agent the provisions of subregulation (2) apply.

(6) Where any change is made in the authorisation of an agent referred to in subregulation (1) the applicant must, within 60 days of the date of such change or such further period as the

Registrar may allow, request the Registrar to change the applicant's address for service and agent authorisation information.

#### **Address for service**

**19.** (1) Unless otherwise directed by the Registrar, there must be provided by every -

- (a) applicant for the grant of a patent or the registration of a utility model, an industrial design or a trade mark, an address for service for the purposes of the application; and
- (b) person, including the applicant for, or the owner of, a patent, industrial design or trade mark, concerned in any proceedings to which the Act or any of these regulations relate, an address for service for the purposes of proceedings under the Act or these regulations,

and the address so furnished or, where another address has been furnished in place thereof, that address must be treated for the purposes of that application or those proceedings, as appropriate, as the address of that applicant or person.

(2) An address for service must in all cases include a street address, but, where an address for service is in area where there is no street, the address given must contain such further indications as the Registrar may consider necessary to find the exact location of the address.

(3) An address for service filed under subregulation (1) must be an address in Namibia, unless in a particular case the Registrar otherwise directs.

#### **Change of name, address or address for service**

**20.** (1) A request by the owner of, or the applicant for, a patent, utility model certificate or an industrial design registration or a trade mark registration for the change or alteration of a name, nationality, address or address for service on record in respect of any application made under the Act or these regulations must be made in writing and must be accompanied by the appropriate fee.

(2) Before acting on a request to change or alter a name or nationality, the Registrar may require such proof of the change or alteration as the Registrar thinks fit.

(3) If the Registrar is satisfied that the request should be allowed, the Registrar must cause the application thereof and, where the name, nationality or address has been recorded in the register, the register to be changed or altered accordingly.

### **PART 4**

#### **PATENTS AND UTILITY MODEL CERTIFICATES**

#### **Exclusion from patentability under section 18 of Act**

**21.** For purposes of section 18(2) of the Act, the following processes in relation to human or animal life or health must be considered as unpatentable:

- (a) processes for cloning human beings;
- (b) processes for modifying the germ line genetic identity of human beings;
- (c) uses of human embryos for industrial or commercial purposes;

- (d) processes for modifying the genetic identity of animals which are likely to cause them suffering without any substantial medical benefit to humankind or animals, and also animals resulting from such processes;
- (e) an embryonic stem cell of an animal, an animal at the various stages of its formation and development such as a germ cell, a zoosperm, an embryo, etc., belong to the category of animal variety;
- (f) a single plant and its reproductive material (such as seed, etc.) which maintains its life by synthesizing carbohydrates and protein from the inorganic substances such as water, carbon dioxide and mineral salts and so on through photosynthesis belong to the category of plant variety;
- (g) inventions that do not possess practical applicability, i.e. cannot easily be reproduced; and
- (h) the human body, at the various stages of its formation and development, and the simple discovery of one of its elements, including the sequence or partial sequence of a gene, cannot constitute patentable inventions.

### **Inventions by two or more persons**

**22.** (1) For the purposes of this regulation, the term “inventor” as used in section 19 of the Act means any person who makes creative contributions to the conception of substantive features of a claimed invention, but does not include a person who, during the course of accomplishing the invention -

- (a) is responsible only for organisational work;
- (b) only offers facilities for making use of material and technical means; or
- (c) only takes part in other auxiliary functions.

(2) For the purpose of section 19(2) of the Act, the inventors may apply for a patent jointly even though -

- (a) they did not physically work together or at the same time;
- (b) each inventor did not make the same type or amount of contribution; or
- (c) each inventor did not make a contribution to the subject matter of every claim of the application,

but, if multiple inventors are named in an application, each named inventor must have made a contribution, individually or jointly, to the subject matter of at least one claim of the application.

(3) Where two or more patent applications relating to the same invention are filed on the same date, only one such applicant, agreed upon after mutual consultation among all the applicants, may obtain a patent for the invention.

(4) If there is no mutual agreement between or among the applicants, the Registrar must order the parties to hold consultations and to reach agreement within 90 days of the order.

(5) If no agreement is reached or no consultation is possible, then the applicants have 90 days to apply to the Tribunal for a determination, failing which the Registrar must reject the application for the grant of the patent and none of the applicants may obtain a patent for the invention.

(6) The Registrar may not grant a subsequent application for the grant of a patent which is based on an application rejected under subregulation (5), and made by the same applicant or any other person.

(7) Where an invention claimed in a patent application is the same as a device claimed in a utility model application and the applications are filed on different dates, the patent applicant may obtain a patent only if the patent application was filed before the utility model application.

(8) Where an invention claimed in a utility model application is the same as a device claimed in a patent application and the applications are filed on different dates, the utility model applicant may obtain a utility model certificate only if the utility model application was filed before the patent application.

(9) Where an invention claimed in a patent application is the same as a device claimed in a utility model application and the applications are filed on the same date, only one applicant, agreed upon after mutual consultation between the applicants, may obtain the patent or the utility model certificate.

(10) If there is no mutual agreement between or among the applicants referred to in subregulation (9), the provisions of subregulations (4), (5) and (6) do, subject to modifications or changes that may be required by the context, apply to the application.

#### **Declaration where inventor not named**

**23.** (1) If the inventor does not wish to be named in the application as contemplated in section 20(1) of the Act, the applicant must file with the Registration Office, the written declaration, before grant of the patent.

(2) The Registrar must record the written declaration in the register and must retain the declaration for the duration of the patent.

#### **Disclosures to be disregarded for prior art purposes**

**24.** (1) An applicant who wishes a disclosure of the invention to be disregarded, in accordance with section 14 of the Act for prior art purposes, must so indicate on the application form and must furnish, in writing, with the application or within 60 days of filing the application, full particulars of the disclosure, and where the disclosure was made at an exhibition, the applicant must file, within the same period, a duly authenticated certificate issued by the authority responsible for the exhibition containing particulars of the exhibition and stating that the invention was in fact exhibited there.

(2) If the applicant fails to provide the particulars within the period specified in subregulation (1), the disclosure may not be disregarded.

#### **Invention by employee or person commissioned**

**25.** (1) Where the right to a patent has passed to someone other than the inventor, as provided for in subsection (1) or (3) of section 21 of the Act, and the inventor has a right to equitable remuneration in an amount to be determined by the Tribunal in accordance with subsection (2), (4) or (5) of that section, the provisions of subregulations (2), (3) and (4) apply.

(2) In determining the amount of the compensation, particular attention must be paid to the value of the invention, the scope of the right which the person who commissioned the work or employer acquires, as well as to the terms and conditions of the commission contract or the employment contract and the contribution which other circumstances connected with the commission or employment contract had to the conception of the invention.

(3) The person who commissioned the work or the employer is obliged to provide the person commissioned or the employee and the Tribunal with information necessary for the determination of the compensation for the invention, specifically information on the filing and grant of patents for the invention, as well as on the production quantities and selling prices of the products conforming to the invention, or of products manufactured by a process conforming to the invention.

(4) The person commissioned or the employee is obliged to provide the person who commissioned the work or the employer with any necessary information on the invention and its utilisation.

### **Classification of patents**

**26.** The Registrar must apply the International Patent Classification, as adopted under the Strasbourg Agreement of 24 March 1971, as updated in its subsequent editions, for all purposes relating to the grant and publication of patents, as well as for the maintenance of classified search files.

### **Application for patent**

**27.** (1) An application for the grant of a patent pursuant to section 24(1) of the Act must be filed with the Registration Office on Form P 1, and must be -

- (a) signed by the applicant, or if there are more than one applicant, by each of those applicants or an authorised agent of the applicant or applicants; and
- (b) accompanied by –
  - (i) the appropriate fee; and
  - (ii) where the applicant has acquired a right to apply from the inventor, an assignment or other written proof, to the satisfaction of the Registrar, of the right of the applicant to apply.

(2) The application must indicate each applicant's name, address, nationality, residence and telephone number, and if the applicant has appointed an agent, the name of that agent and the address of the agent's place of business.

(3) Where the assignment, or other proof do not accompany the application, they must be filed within 60 days of the application date or such other time as the Registrar may specify, failing which the application must be considered to have been abandoned.

(4) The elements of the application must be sequentially numbered and placed in the following order:

- (a) the request;
- (b) the description;
- (c) the claims;
- (d) the abstract;
- (e) the drawings or sequence listing, if any,
- (f) the priority document, if any,

- (g) the assignment, if any;
- (h) the power of attorney, if any; and
- (i) proof of payment of the appropriate application fee.

(5) The textual matter of the application must be typed, but, graphic symbols, chemical or mathematical formulae and certain characters, if necessary, may be handwritten or drawn.

### **Request for grant of patent**

**28.** (1) The request for the grant of a patent must contain a petition for a patent to be granted and must be signed by the applicant or the applicant's authorised representative.

(2) The request must indicate each applicant's name, inventor's name, address, nationality, and residence in accordance with regulation 15.

(3) Where the applicant is the inventor, the request must contain a statement to that effect, and, where the applicant is not, it must indicate each inventor's name and address and be accompanied by a written statement justifying the applicant's right to the patent.

(4) If the applicant is represented by an agent, the request must so indicate and state the agent's name, address, and contact telephone number and a power of attorney on Form G2 must also be included.

(5) Where there are two or more applicants and no agent is appointed, unless otherwise stated in the request, the applicant named first in the request is the representative and the party with whom the Registration Office communicates regarding the application.

(6) Where the priority of an earlier application is claimed, the date and application number of the prior application as well as the competent authority with which the application was filed must be provided along with the appropriate fee for claiming priority.

(7) The title of the invention must be short, preferably consisting of two to seven words, clear and concise.

### **Description**

**29.** (1) The description of an application for a patent for an invention must state the title of the invention, which must be the same as it appears in the request, and the description must include the following:

- (a) technical field: specifying the technical field to which the technical solution for which protection is sought pertains;
- (b) background art: indicating the background art which, as far as known to the applicant, can be regarded as useful for understanding, searching, and examining the invention, and when possible, citing the documents reflecting such art;
- (c) contents of the invention: disclosing the technical problem the invention aims to solve and the technical solution adopted to resolve the problem, and stating, with reference to the prior art, the advantageous effects of the invention;
- (d) description of figures: briefly describing each figure in the drawings, if any; and

- (e) best mode of carrying out the invention: describing in detail the optimally selected mode contemplated by the applicant for carrying out the invention, where appropriate, this must be done in terms of examples, and with reference to the drawings, if any.
- (2) The description must –
- (a) indicate explicitly, when it is not obvious from the nature of the invention, the way in which the invention is industrially applicable and the way in which it can be made and used;
  - (b) enable a person of skill in the art to know what the invention is, and to be able to make and use the invention without undue experimentation; and
  - (c) use standard terms and be in clear wording.
- (3) Where the subject matter of a patent application is derived from or developed with biological resources or associated indigenous or traditional knowledge, the applicant must disclose in the application for a patent –
- (a) the State providing the resources or associated indigenous or traditional knowledge, and from whom in the providing State they were obtained;
  - (b) as known after reasonable inquiry, the State of origin; and
  - (c) whether an International Certificate of Compliance as provided for in the Nagoya Protocol to the Convention on Biological Diversity of 1992 has been applied for and obtained.
- (4) A disclosure made for the purposes of subregulation (3) must be made by a written declaration.
- (5) The preceding manner and order referred to in subregulation (1) must be followed by the applicant for a patent for invention, and each of the parts must be preceded by a heading, unless, because of the nature of the invention, a different manner or order would result in a better understanding and a more concise presentation.

### **Description for microbiological products and processes**

**30.** Where an invention for which a patent is applied for concerns new biological material which is not available to the public and which cannot be described in the application in such a manner as to enable the invention to be carried out by a person skilled in the art, the applicant must -

- (a) deposit a sample of the biological material with a depository institution designated by the Registration Office before, or at the latest, on the date of filing, or the priority date where priority is claimed;
- (b) submit at the time of filing or at the latest, within 120 days from the date of filing, a receipt of deposit and the viability proof from the depository institution, but, if the biological material is not submitted within the specified time limit, the sample of the biological material must be considered not to have been deposited;
- (c) provide, in the application document, relevant information on the characteristics of the biological material;

- (d) indicate, where the application relates to the deposit of a sample of the biological material, in the request and the description –
- (i) the scientific name, with its Latin name;
  - (ii) the title and address of the depositary institution;
  - (iii) the date on which the sample of the biological material was deposited; and
  - (iv) the accession number of the deposit,

but, if at the time of filing, the information is not so indicated, it must be supplied within 120 days from the date of filing, failing which the sample of the biological material must be considered not to have been deposited.

### Claims

31. (1) The claims must define the matter for which protection is sought in terms of the technical features of the invention.

(2) The number of claims must be reasonable, taking into account the nature of the invention, and, where there are several claims, they must be numbered consecutively using Arabic numerals.

(3) Whenever appropriate, claims must contain -

- (a) a statement indicating those technical features of the invention which are necessary for the definition of the invention but which, in combination, are part of prior art; and
- (b) a characterising portion-preceded by the words “characterised in that,” “characterised by,” “wherein the improvement comprises,” or any other words to the same effect, stating concisely the technical features which, in combination with the features stated under paragraph (a), it is desired to protect.

(4) Claims may not, except where absolutely necessary, rely, in respect of the technical features of the invention on references to the description or drawings, in particular, they may not rely on such references as “as described in part ... of the description,” or “as illustrated in figure ... of the drawings.”

(5) Where the application contains drawings, the technical features mentioned in the claims must preferably be followed by the reference signs relating to such features, and –

- (a) when used, the reference signs must preferably be placed between parentheses; and
- (b) if inclusion of reference signs does not particularly facilitate quicker understanding of a claim, it may not be made.

(6) Any claim submitted after the filing date of the application and which is not identified with the claims previously appearing in the application must, at the choice of the applicant, be submitted either as an amended claim or as a new claim.

(7) The deletion of any claim previously appearing in the application must be made by indicating the number of the previous claim followed by the word “cancelled.”

(8) Claims related to medical indications or use claims must, for the purpose of examination, be drafted in accordance with the standard phrases provided below:

- (a) Claims regarded as first medical indications
  - (i) Pharmaceutical composition for the prophylaxis/treatment of Y(=disease) comprising X(=a drug/medicament).
  - (ii) Pharmaceutical composition comprising X.
  - (iii) Compound X for use as a drug/medicament for the treatment of Y.
  - (iv) Use of X for the manufacture of a pharmaceutical composition (Note that the disease indication is not mentioned in the claim).
  - (v) Compound X for use as an analgesic.
  - (vi) Compound X for use in treating disease Y.
  - (vii) Compound A containing X for use in treating disease Y (composition A may be genetically defined).
  - (viii) Medicament containing compound X.
  - (ix) Use of X for preparing a medicament.
- (b) Claims regarded as second medical indications
  - (i) Use of X for the manufacture or preparation of a medicament or pharmaceutical composition for the treatment of Y.
  - (ii) Process for the preparation of a medicament for treating disease Y characterized in that compound X is used as the main active component of the medicament.

(9) The Registrar may issue Administrative Instructions on further detailed matters relating to the preparation and contents of claims.

## Drawings

**32.** (1) Drawings forming part of an application for a patent must be on A4 paper, and the sheets must not contain frames around the usable or used surface.

- (2) Drawings must comply with the following requirements:
  - (a) they must be drawn in durable, black sufficiently dense and dark, uniformly thick and well-defined lines and strokes without colouring to permit satisfactory reproduction;
  - (b) cross-sections must be indicated by hatching which does not impede the clear reading of the reference signs and leading lines;
  - (c) the scale of the drawings and the distinctness of their graphical execution must be such that a photographic reproduction with a linear reduction in size to two-thirds would enable all details to be distinguished without difficulty, but, if, as an exception, the scale is given on a drawing, it must be represented graphically;

- (d) all numbers, letters and reference signs appearing in the drawings must be simple and clear, and brackets, circles and inverted commas may not be used in association with numbers and letters;
  - (e) elements of the same figure must be in proportion to each other, unless a difference in proportion is indispensable for the clarity of the figure;
  - (f) the same sheet of drawings may contain several figures, but where figures drawn on two or more sheets are intended to form one whole figure, the figures on the several sheets must be so arranged that the whole figure can be assembled without concealing any part of the partial figures and the different figures must be -
    - (i) arranged without wasting space, clearly separated from one another; and
    - (ii) numbered consecutively in Arabic numerals, independently of the numbering of the sheets;
  - (g) reference signs not mentioned in the description or claims may not appear in the drawings, and *vice versa*, but, the same features, when denoted by reference signs, must, throughout the application, be denoted by the same signs; and
  - (h) the drawings may not contain textual matter, except, when required for the understanding of the drawings, a single word or words such as “water”, “steam”, “open”, “closed”, “section on AA” and in the case of electric circuits and block schematic or flow sheet diagrams, a few short catchwords may be used.
- (3) Flow sheets and diagrams are considered to be drawings.

### **Abstract**

- 33.** (1) The abstract must be so drafted that it can efficiently serve as a scanning tool for purposes of searching in the particular art.
- (2) The abstract must consist of the following:
    - (a) a summary of the disclosure as contained in the description, the claims, and any drawings or chemical formula, indicating the technical field to which the invention pertains and drafted in a way which allows the clear understanding of the technical problem, the gist of the solution of that problem through the invention, and the principal use or uses of the invention; and
    - (b) where applicable, the chemical formula which, among all the formulae contained in the application, best characterises the invention.
  - (3) The abstract must be –
    - (a) so drafted using key words that it can efficiently serve as a scanning tool for purposes of searching in the particular art; and
    - (b) as concise as the disclosure permits, preferably 50 to 150 words.
  - (4) The abstract may not contain statements of the alleged merits or value of the invention or on its speculative application.

(5) Each main technical feature mentioned in the abstract and illustrated by a drawing or chemical formula in the application must be followed by a reference sign, placed between parentheses.

(6) The abstract must be accompanied by the most illustrative of any drawings furnished by the applicant.

### **Measures, terminology and signs**

**34.** (1) Units of weights and measures must be expressed in terms of the metric system.

(2) Temperatures must be expressed in degrees centigrade (Celsius).

(3) Density must be expressed in metric units.

(4) For indications of heat, energy, light, sound, and magnetism, as well as for mathematical formulae and electrical units, rules in general use must be observed.

(5) For chemical formulae, the symbols, atomic weights, and molecular formulae, in general use, must be employed.

(6) In general, only such technical terms, signs and symbols must be used as are generally accepted in the art.

(7) The terminology and the signs must be consistent throughout the application.

### **Unity of invention**

**35.** (1) Section 26 of the Act must be construed as permitting, in particular, one of the following three possibilities:

(a) in addition to an independent claim for a given product, the inclusion in the same application of an independent claim for a process specially adapted for the manufacture of the said product, and the inclusion in the same application of an independent claim for a use of the said product;

(b) the inclusion in the same application of an independent claim for an apparatus or means specifically designed for carrying out the said process; or

(c) the inclusion in the same application of an independent claim for a process specially adapted for the manufacture of the product, and the inclusion in the same application of an independent claim for an apparatus or means specifically designed for carrying out the process.

(2) Two or more inventions belonging to a single general inventive concept which may be filed as one application in accordance with the provisions of section 26(1) of the Act must be technically interrelated and contain one or more of the same or corresponding special technical features.

(3) For purposes of subregulation (2), the expression “special technical features” means those technical features that define a contribution which each of those inventions, considered as a whole, makes over the prior art.

(4) Subject to section 26 of the Act, it is permitted to include in the same application two or more independent claims of the same category which cannot readily be covered by a single generic claim.

(5) Subject to section 26 of the Act, it is permitted to include in the same application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim.

(6) If the Registrar finds that an application for a patent is not in conformity with the provisions of section 26 of the Act, the Registrar must, in writing, invite the applicant to amend the application within 90 days of the invitation, and if the applicant fails to make any response after the expiration of the specified time limit, the application must be considered to have been abandoned.

### **Divisional application**

**36.** (1) Where an application for a patent contains two or more inventions, the applicant may, before the expiration of the time limit provided for in regulation 35(6), and on payment of the appropriate fee, file with the Registration Office, a divisional application on Form P 1, but, where an application for patent has been rejected, withdrawn or is considered to have been abandoned, no divisional application may be filed.

(2) If the Registrar finds that an application for a patent is not in conformity with the provisions of section 27 of the Act, the Registrar must, in writing, invite the applicant to amend the application within 60 days of the invitation, and, if the applicant fails to make any response after the expiration of the specified time limit, the application must be considered to have been abandoned.

(3) The divisional application may not change the kind of protection sought for in the initial application.

(4) A divisional application filed in accordance with subregulation (1), is entitled to the filing date and, if priority is claimed, the priority date, of the initial application, as long as the divisional application does not go beyond the scope of disclosure contained in the initial application.

(5) The divisional application must go through all the formalities in accordance with the provisions of the Act and these regulations.

(6) The filing number and the filing date of the initial application must be indicated in the request of the divisional application.

(7) When the divisional application is filed, it must be accompanied by a copy of the initial application and, if priority is claimed for the initial application, a copy of the priority document of the initial application must also be submitted.

(8) A divisional application must contain a reference to the initial application.

(9) If the applicant wishes a divisional application to benefit from any priority claimed for the initial application, the divisional application must contain a request to that effect, and in such a case, the declaration of priority and the documents furnished in accordance with regulation 27 for the initial application must be considered as relating also to the divisional application.

(10) Where the priorities of two or more earlier applications were claimed for the initial application, a divisional application may benefit only from the priority or priorities that are applicable to it.

### **Right of priority**

**37.** (1) The declaration referred to in section 29(1) of the Act must be made at the time of filing the application for the patent and must indicate -

- (a) the date of filing of the earlier application;
  - (b) subject to subregulation (4), the number of the earlier application;
  - (c) the symbol, if any, of the International Patent Classification which has been allocated to the earlier application;
  - (d) the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the State or States in which it was filed; and
  - (e) where the earlier application is a regional or an international application, the office with which it was filed.
- (2) Where priorities are claimed to multiple prior applications, the information required in subregulation (1) must be provided for each prior application.
- (3) The applicant may, at any time before the grant of the patent, amend the contents of the declaration referred to in subregulation (1).
- (4) Where at the time of filing the declaration referred to in subregulation (1), the number of the earlier application is not known, that number must be furnished within the period of 90 days from the date on which the application containing the declaration was filed.
- (5) Where a symbol of the International Patent Classification has not been allocated to the earlier application, or had not yet been allocated at the time of filing the declaration referred to in subregulation (1), the applicant must state this fact in the said declaration and must communicate such symbol within 30 days after it has been allocated.
- (6) The period for furnishing the certified copy of the earlier application, referred to in section 29(2) of the Act, and payment of the appropriate fee for claiming priority, is 90 days from the date of the request by the Registrar, and where a copy has already been furnished for another application, the applicant may respond by making a reference to that other application.
- (7) Where the earlier application is in a language other than English, the applicant must, within 180 days from the date of the request under section 29(2) of the Act, furnish an English translation of the earlier application.
- (8) Where the name or title of the applicant who claims the right of priority is not the same as the one recorded in the copy of the earlier application, the applicant must submit a document certifying the assignment of the right of priority within 90 days from the date of the request by the Registrar.
- (9) If the applicant fails to comply with the time limits set out in subregulation (4), (5), (6), (7) or (8), the right of priority must be considered not to have been claimed.
- (10) An applicant may claim one or more priorities for an application for a patent, and, where multiple priorities are claimed, the priority period for the application must be calculated from the earliest priority date.
- (11) Unless the Registrar requests otherwise, the earlier application and any translation thereof must be filed in one copy.

**Information concerning corresponding foreign applications**

**38.** (1) The time limits to be specified for the furnishing of documents or information requested under section 30(1) or (4) of the Act may not be less than 60 days and not more than 180 days from the date that a request is made, but, upon a reasoned request by the applicant, the Registrar may extend those time limits.

(2) Where the document or information referred to in subsection (1) is not available at the time of application for a patent, the document or information must be provided to the Registrar within 60 days after the applicant receives the relevant document or information, but, upon a reasoned request by the applicant, the Registrar may extend that time limit.

(3) If the applicant fails to comply with the time limits specified in subregulation (1), or (2), the right of priority must be considered not to have been claimed.

(4) If the Registrar requests for a document or information that is required to be filed or furnished under section 30 of the Act, and the applicant replies that the document or information is not yet available, the Registrar may suspend the procedure for the examination of the application until such time that the document or information is filed or furnished.

**Post-dating of application**

**39.** (1) A request to post-date an application for a patent pursuant to section 31 of the Act must be filed with the Registration Office on Form P 2, and must be accompanied by the appropriate fee.

(2) An applicant must provide the Registrar with reasons why the applicant wants the application to be post-dated and the Registrar may, subject to section 31 of the Act, reject the request or accept the request and post-date the application.

**Marking of application**

**40.** (1) On receipt, the Registrar must mark on each document making up the application, the actual date of receipt and the application number consisting of the letters [NA], the letter P, the year in which the application documents were received, and a number allotted in the sequential order in which applications are received, separated from one another by a stroke symbol ('/').

(2) Where any corrections or other later filed documents are received on different dates, the Registrar must also mark their actual date of receipt in the appropriate place of the application for the grant of the patent contained in Form P 1.

(3) The application number allotted under subregulation (1) must be quoted in all subsequent communications concerning the application.

**Filing date**

**41.** (1) The Registrar must examine whether the application fulfills the requirements of section 34 of the Act.

(2) The invitation to file any correction, under section 34(2) of the Act, must specify the correction or corrections required and in writing request the applicant to file the corrections within 60 days from the date of the invitation, together with the payment of the appropriate fee.

(3) The period within which the applicant must furnish the Registrar with missing drawings as contemplated in section 34(5) of the Act is 30 days, but the Registrar may on good cause shown, extend the period.

(4) If the applicant fails to comply with the time limits specified in subregulation (2) or (3), the application must be considered to have been abandoned.

(5) Once the Registrar accords a filing date as contemplated in section 34(1) of the Act, the Registrar must notify the applicant in writing and if the application is treated as if it had not been filed under section 34(4) of the Act, the Registrar must notify the applicant in the same manner, specifying the reasons.

### **Amendment of patent application**

**42.** (1) An application for the amendment of a patent application pursuant to section 28(1) of the Act must be filed with the Registration Office on Form P 3, and must be accompanied by the appropriate fee.

(2) Where the applicant amends the application after receiving the notification of the Registrar's opinions on the examination as to substance, the applicant must make the amendment directed to the defects pointed out by the notification within 90 days of the date of the notification, but the Registrar may, on request by the applicant, extend the time period for amendment on payment of the appropriate fee.

(3) The applicant may apply for correction of clerical mistakes and symbol mistakes in the patent application documents on Form P 3.

(5) The Registration Office may, on its own initiative, correct obvious clerical mistakes and symbol mistakes in the patent application documents, but the Registration Office must notify the applicant of those corrections.

(6) When an amendment to the description or the claims in an application for a patent is made, a replacement sheet in the form prescribed by these regulations must be submitted.

### **Withdrawal of application**

**43.** (1) An application for the withdrawal of a patent application pursuant to section 32 of the Act must be by written declaration filed with the Registration Office.

(2) The written declaration referred to in subregulation (1) must be signed by each applicant or an authorised agent of each applicant.

(3) If an application is withdrawn under subregulation (1), the initial application fee is not refundable.

### **Conversion of patent application to application for utility model certificate**

**44.** (1) An application for the conversion of a patent application into an application for a utility model certificate pursuant to section 33(1) of the Act must be filed with the Registration Office on Form P 4, and must be accompanied by the appropriate fee.

(2) The Registrar must, within 60 days of the receipt of an application under subregulation (1), in writing, notify the applicant of the Registrar's decision and, where the Registrar refuses the application, the Registrar must specify the reasons for the refusal.

**Examination as to form**

**45.** (1) The examination as to form referred to in section 35 of the Act means the scrutinising of an application for a patent to see whether or not it meets the requirements of sections 23, 24 and 25 of the Act, regulations 11 to 18 and regulations 23, 27 and 34.

- (2) Where the Registrar finds that –
- (a) the conditions referred to in section 34(2) and (5) of the Act are not fulfilled, the Registrar must in writing invite the applicant to file the required corrections; and
  - (b) an abstract is not provided, the Registrar must in writing invite the applicant to correct the deficiency,

within 60 days from the date of the invitation, together with the payment of the appropriate fee.

(3) If the applicant fails to make any response within the time limit specified in subregulation (2), the application must be considered to have been abandoned.

(4) Where, after the applicant has made some observations or corrections, the Registrar still decides that the application is not in conformity with the provisions of the Act or these regulations, the application must be rejected.

(5) In the course of examining or treating a matter in a pending application, the Registrar may require the applicant to submit such information as may be reasonably necessary to properly examine or treat the matter.

(6) Any reply to a requirement for information pursuant to this regulation that states either that the information required to be submitted is unknown to or is not readily available to the party or parties from which it was requested may be accepted as a complete reply.

(7) Any reply to a requirement for information must be made in the form of a written declaration.

(8) A failure to reply to a requirement for information under this regulation could result in the application being considered to be abandoned.

(9) The rejection of an application does not affect its filing date which remains valid, subject to section 34(3), (6) and (7) of the Act.

(10) Where an application for the grant of a patent for pharmaceutical products and processes is received by the Registration Office, the Registrar must, after conducting an examination as to form under this regulation, refer the application to the Permanent Secretary of the Ministry responsible for health.

(11) On receipt of the application referred to in subregulation (2), the Permanent Secretary must examine or cause to be examined the subject matter of the patent application to determine whether on the face of it –

- (a) granting the patent will not be contrary to public health;
- (b) the claimed product or pharmaceutical process may present a health risk; or

- (c) granting of the patent will enhance access to essential medication or will constitute an improvement on any pharmaceutical care programme run by that Ministry.

(12) On consideration of the matters mentioned in subregulation (1), the Permanent Secretary must -

- (a) recommend that the application be further processed or not and give reasons for the recommendation; and
- (b) submit the recommendation to the Registrar,

within 60 days of receiving the application or within such further period that the Registrar may allow on request.

(13) On receipt of the recommendation of the Permanent Secretary, the Registrar may -

- (a) process the application further; or
- (b) decline to further process the application and give written reasons for the decision,

and in either case, the Registrar must in writing notify the applicant of the decision.

(14) The Registrar may issue Administrative Instructions for detailed matters relating to examinations as to form under section 35 of the Act and this regulation.

#### **Examination as to substance**

**46.** (1) For the purposes of the examination under section 36 of the Act, the Registrar may cause the application to be transmitted together with all relevant documents to an examining authority which has concluded an agreement to this effect with the Registrar, requesting a search and examination on the patentability of all claims in the application and a report.

(2) Where, taking due account of the conclusions of any search and examination report referred to in subregulation (1) or submitted from a foreign office, if any, the Registrar is of the opinion, that the conditions referred to in sections 13 to 18 of the Act are not fulfilled, the Registrar must, in writing, notify the applicant, inviting the applicant to submit any observations and, where applicable, to amend or divide the application, within a specified period and that specified period may not be more than 180 days from the date of the notification.

(3) The notification referred to in subregulation (1) may be given several times, if the Registrar considers it necessary.

(4) Any amendment made in response to the notification under subregulation (2) must be made together with the payment of the appropriate fee.

(5) Where the applicant does not comply with the said invitation or where, despite any observation, amendments or division submitted by the applicant, the Registrar is of the opinion that the conditions referred to in sections 13 to 18 of the Act are not fulfilled, the Registrar must refuse to grant the patent.

(6) The Registrar may issue Administrative Instructions for examinations as to substance under section 36 of the Act and this regulation.

### **Grant or refusal of patent**

47. (1) If the Registrar grants or refuses to grant a patent under section 38 of the Act, the Registrar must, in writing, notify the applicant of the decision to grant or to refuse to grant the patent, attaching a copy of the search and examination report, if any, on which the decision is based and, in the case of a decision to grant a patent, requesting the applicant to pay the appropriate registration, publication and annual fee within 90 days from the date of the notification.

(2) The Registrar must, on payment of the registration fee for the grant of a patent right, publication fee for the announcement of grant of the patent right and the annual fee for each year starting one year after the filing date of the application for the grant of the patent, grant the patent right.

(3) If the applicant fails to pay the appropriate registration, publication and annual fee within the time limit specified in subregulation (1), the applicant must be considered to have abandoned his or her or its right to obtain the patent right.

### **Registration and publication of patent**

48. (1) On grant of a patent under section 38(1) of the Act, the Registrar must –

- (a) register the patent and allot to the patent, a number in the sequential order of grant;
- (b) issue a copy of the patent to the applicant on Form P 5; and
- (c) issue the certificate of grant to the applicant on Form P 6.

(2) The patent must be granted on a new form containing patent information and must contain, in addition to the information indicated in subregulation (4), the date of publication of the patent, the prior art documents or references cited, the description, the claims, the abstract, and the drawings if any.

(3) The patent must be considered to have been granted on the date that the Registrar publishes a reference to the grant in accordance with section 39(1)(a) of the Act.

- (4) The publication of the reference to the grant of the patent must include –
- (a) the number of the patent and patent application;
  - (b) the name and address of the owner of the patent;
  - (c) the name and address of the inventor, except where the inventor has asked not to be named in the patent;
  - (d) the name and address of the agent, if any;
  - (e) the filing date;
  - (f) if priority has been claimed and the claim has been accepted, a statement of the priority, the priority date and the name of the State or States in which or for which the earlier application was filed;
  - (g) the effective date of grant of the patent;
  - (h) the title of the invention;

- (i) the abstract; and
  - (j) the most illustrative of the drawings, if any.
- (5) The Registrar must sign the certificate of grant which must contain -
- (a) the number of the patent and patent application number;
  - (b) the name and address of the owner of the patent;
  - (c) the filing date and, where applicable, the priority date of the application;
  - (d) the effective date of grant of the patent; and
  - (e) the title of the invention.

(6) A request for a copy of a patent pursuant to section 39(2) of the Act must be accompanied by the appropriate fee.

### **Amendment of patent**

**49.** (1) A request for an amendment of a patent pursuant to section 40(1) of the Act must be filed with the Registration Office on Form P 7, and must be accompanied by the appropriate fee.

(2) The Registrar must publish the request for an amendment in the bulletin, specifying that anyone wishing to oppose the amendment must do so within 90 days of the publication of the notice.

(3) Any person may pursuant to section 40(3) of the Act oppose a request for amendment made under subregulation (1) within the period specified in subregulation (2) by lodging Form P 8 with the Registration Office, together with payment of the appropriate fee and any accompanying supporting evidence, if any, in duplicate.

(4) The Registrar may extend the period referred to in subregulation (2) for a further 30 days period, if the Registrar so considers it necessary and appropriate, taking into account the particular circumstances of each case.

(5) On receipt of the notice of opposition, the Registrar must send a copy to the applicant and the applicant may, on payment of the appropriate fee, submit a counter-statement on Form P 9, stating the grounds on which the applicant relies on in support of the request, together with supporting evidence, if any, in duplicate, within 30 days from the date that the notice of opposition was sent to the applicant.

(6) The Registrar may extend the period referred to in subregulation (5) for a further 30 days period, if the Registrar so considers it necessary and appropriate, taking into account the particular circumstances of each case.

(7) No amendment to a statement of opposition or counter-statement may be allowed except with the leave of the Registrar and on such terms as the Registrar determines to be appropriate.

(8) On receipt of the counter-statement, or if no counter-statement is received within the period specified in subregulation (5), the Registrar must make a determination on the request.

(9) Before making a determination on the request, the Registrar may request for further information from the applicant or the person opposing the amendment.

(10) Where there is opposition, the Registrar may, on request by any of the parties, or on the Registrar's own initiative, order that a hearing be held in the matter.

### **Duration of patent**

**50.** (1) For the purposes of section 45 of the Act, the term of a patent begins on the day of grant of the patent and expires at midnight on the date that is 20 years after the filing date of the application for the patent as described in that section.

(2) Priority under section 29 or 77 of the Act may not be taken into account in determining the term of a patent.

### **Annual fee**

**51.** (1) The payment of the annual fee for the maintenance of a patent or patent application pursuant to section 46(1) of the Act must be made on Form P 10.

(2) The annual fee is payable on or before the anniversary date of the filing date of the application for the patent, failing which the appropriate surcharge fee must be paid within the period specified in subsection (3).

(3) The owner of a patent or the applicant for a patent has, on payment of a surcharge fee, a grace period of 180 days for the late payment of the annual fee.

(4) On payment of an annual fee, and a surcharge fee, if payable, in accordance with this regulation, the Registrar must, within 30 days from the date on which payment is received, furnish or send to the owner of the patent or the applicant for a patent an acknowledgement of receipt.

(5) If the annual fee or any surcharge fee is not paid in accordance with the provisions of subregulation (1) or (2), the -

(a) patent lapses as contemplated in section 46(3) of the Act, and must be removed from the register; or

(b) patent application must be deemed to have been withdrawn as contemplated in section 46(3) of the Act.

(6) The Registrar must publish a notification in the bulletin of the lapse of the patent within a reasonable period after the expiration of the annual fee payment grace period.

(7) The annual fee is not refundable

### **Restoration of patent application or patent**

**52.** (1) An application for restoration of patent application or patent after lapse due to non-payment of the annual fee or surcharge fee pursuant to section 47(1) of the Act, must be filed with the Registration Office on Form P 11, and must be accompanied by the appropriate fee.

(2) An application under subregulation (1) must be made within 180 days from the date of the deemed withdrawal of the patent application or lapse of the patent.

(3) The Registrar must publish the application for restoration of a patent application or patent in the bulletin, inviting persons who wish to oppose the application to do so within 30 days of publication of the application.

(4) Any person may, within the period specified in subregulation (3) and on payment of the appropriate fee, give notice of opposition pursuant to section 47(2) of the Act by lodging Form P 8 with the Registration Office.

(5) On receipt of the notice of opposition, the Registrar must send a copy to the applicant, and the applicant may, on payment of the appropriate fee, submit a counter-statement on Form P 9, stating the grounds on which the applicant relies on in support of the application, within 30 days from the date that the notice of opposition was sent to the applicant.

(6) On receipt of the counter-statement, or if no counter-statement is received within the period specified in subregulation (5), the Registrar must make a determination on the application.

(7) The restoration of the patent application or patent may only be granted on payment of the unpaid annual fee and the appropriate penalty fee.

(8) Any party may request for an oral hearing or the Registrar may require the hearing and the hearing will be held.

### **Change of ownership of patent application or patent**

**53.** (1) A request for change of ownership of a patent application or a patent pursuant to section 48(2) of the Act must be -

- (a) filed with the Registration Office on Form P 12 within 60 days of the change in ownership; and
- (b) accompanied by the appropriate fee and the appropriate penalty fee, if the request is made after the expiry of the time limit specified in paragraph (a).

(2) If the Registrar finds that any person has an interest in the patent application or patent which interest is recorded in the register, the Registrar must in writing -

- (a) notify the person concerned;
- (b) invite that person to lodge any objection, if any, to the change in ownership within 60 days of the notification; and
- (c) require the person to pay the appropriate objection fee.

(3) If there is an objection to the change in ownership, the Registrar must make a determination on the application or hold a hearing to determine the matter.

(4) The Registrar must publish all changes in patent applications or patent ownership in the bulletin.

(5) The publication of the change in ownership must specify -

- (a) the number of the application or registration concerned;
- (b) the filing date, the priority date, if any, and the date of registration;
- (c) the current owner and the new owner; and
- (d) the nature of the change of ownership.

**Voluntary licence concerning patent application or patent**

**54.** (1) An application for the recordal of a voluntary licence in respect of a patent application or a patent pursuant to section 51(2) of the Act must be –

- (a) made within 12 months of the conclusion of the licence contract;
- (b) filed with the Registration Office on Form P 13; and
- (c) accompanied by the voluntary licence contract and the appropriate fee.

(2) Failure to submit the application within the period specified in subregulation (1) will attract the appropriate penalty fee.

(3) A request for the cancellation of a voluntary licence pursuant to subsection (5) of section 51 of the Act or the variation of a voluntary licence must be filed with the Registration Office on Form P 14, and must be accompanied by the appropriate fee and evidence of the expiry or termination of the licence as required under that subsection.

(4) The Registrar must publish the cancellation or variation of a voluntary licence in the bulletin.

**Application to Tribunal to exploit patented invention: non-working or abuse**

**55.** (1) An application for a compulsory licence pursuant to section 55(1) or (4) of the Act must be –

- (a) submitted to the Tribunal on Form P 15;
- (b) served on the Registrar; and
- (c) accompanied by –
  - (i) a statement in duplicate of the facts on which the applicant relies and evidence in duplicate verifying the statement;
  - (ii) a copy of the proposed licence; and
  - (iii) the appropriate fee.

(2) The words “not adequately exploited” in section 55(2) of the Act includes the patentee or its licensee exploiting the patent in a manner or on a scale that fails to meet the domestic demands for the patented product or process.

(3) The Tribunal must, within 90 days from the date of the request for grant of a compulsory licence under subregulation (1), examine whether the requirements of section 55 of the Act and subregulation (1) are, *prima facie*, satisfied.

(4) If the Tribunal finds that the requirements are –

- (a) satisfied, it must forthwith direct the applicant to serve a copy of the application on the patent owner, and invite the patent owner to, in writing, submit observations on the application to the Tribunal within 90 days of the date of the invitation; or

(b) not satisfied, the Tribunal must reject the application and, in writing, notify the person who has applied for the compulsory licence, stating the grounds for the rejection.

(5) On receipt of a copy of an application referred to in subregulation (4)(a), the patent owner must forthwith, in writing, notify all –

(a) beneficiaries of voluntary licences issued in respect of the patent; and

(b) persons exploiting the patented invention under section 55, 56 or 57 of the Act,

of the application for the compulsory licence, and the beneficiaries and licensees have the right to submit their own observations, in writing, to the Tribunal within 60 days of the date of receiving the invitation referred to in that subregulation.

(6) The Tribunal must forthwith notify the person who has applied for the compulsory licence of any observations submitted under subregulations (4)(a) and (5).

(7) The Tribunal must then convene a hearing to which it must invite the Registrar, the person who has applied for the compulsory licence, the patent owner, and the persons who submitted observations under subregulation (5), giving them not less than 30 days written notice of the date set for the hearing.

(8) After the hearing, if the Tribunal finds that the conditions for the grant of a compulsory licence are –

(a) fulfilled, it must grant the compulsory licence; or

(b) not met, it must refuse to grant the licence.

(9) The decision to grant or to refuse a compulsory licence must be in writing, must state the grounds on which it is based and in the case of a decision to grant the compulsory licence, must specify, in particular –

(a) the period for which the licence is granted;

(b) to which of the acts referred to in section 55 of the Act, other than importation, the licence extends;

(c) if required, the time limit within which the beneficiary of the compulsory licence must commence working the patented invention; and

(d) the terms regarding payment of remuneration.

(10) The Registrar must record and publish the decision to grant or to refuse the compulsory licence in the bulletin and transmit a copy to the person who has applied for the compulsory licence, the owner of the patent and the persons who submitted observations under subregulation (5).

#### **Application to Tribunal for compulsory licence: interdependence of patents**

**56.** (1) An application for a compulsory licence under section 56(1) or (2) of the Act must be –

(a) submitted to the Tribunal on Form P 16;

(b) served on the Registrar; and

- (c) accompanied by –
  - (i) a statement in duplicate of the facts on which the applicant relies and evidence in duplicate verifying the statement;
  - (ii) a copy of the proposed licence; and
  - (iii) the appropriate fee.

(2) The Tribunal must, within 90 days from the date of the request for grant of a compulsory licence under subregulation (1), examine whether the requirements of section 56 and subregulation (1) are, *prima facie*, satisfied.

- (3) If the Tribunal finds that the requirements are –
  - (a) satisfied, it must forthwith direct the applicant to serve a copy of the application on the patent owner, and invite the patent owner to, in writing, submit observations on the application to the Tribunal within 90 days of the date of the invitation; or
  - (b) not satisfied, the Tribunal must reject the application and, in writing, notify the person who has applied for the compulsory licence, stating the grounds for the rejection.

(4) On receipt of a copy of an application referred to in subregulation (3)(a), the patent owner must forthwith, in writing, notify all –

- (a) beneficiaries of voluntary licences issued in respect of the patent; and
- (b) persons exploiting the patented invention under section 55, 56 or 57 of the Act,

of the application for the compulsory licence, and the beneficiaries and licensees have the right to submit their own observations, in writing, to the Tribunal within 60 days of the date of receiving the invitation referred to in that subregulation.

(5) The Tribunal must forthwith notify the person who has applied for the compulsory licence of any observations submitted under subregulations (3)(a) and (4).

(6) The Tribunal must then convene a hearing to which it must invite the Registrar, the person who has applied for the compulsory licence, the patent owner, and the persons who submitted observations under subregulation (4), giving them not less than 30 days written notice of the date set for the hearing.

(7) After the hearing, if the Tribunal finds that the conditions for the grant of a compulsory licence are –

- (a) fulfilled, it must grant the compulsory licence; or
- (b) not met, it must refuse to grant the licence.

(8) The decision to grant or to refuse a compulsory licence must be in writing, must state the grounds on which it is based and in the case of a decision to grant the compulsory licence, must specify, in particular –

- (a) the period for which the licence is granted;

- (b) to which of the acts referred to in section 56 of the Act, other than importation, the licence extends;
- (c) if required, the time limit within which the beneficiary of the compulsory licence must commence working the patented invention; and
- (d) the terms regarding payment of remuneration.

(9) The Registrar must record and publish the decision to grant or to refuse the compulsory licence in the bulletin and transmit a copy to the person who has applied for the compulsory licence, the owner of the patent and the persons who submitted observations under subregulation (4).

#### **Application for authority to exploit patent in public interest**

**57.** (1) An application for authorisation to exploit a patent in the public interest pursuant to section 57(3) of the Act must be –

- (a) submitted to the Board on Form P 17;
- (b) served on the Registrar; and
- (c) accompanied by -
  - (i) a statement in duplicate of the facts on which the applicant relies and evidence in duplicate verifying the statement;
  - (ii) a copy of the proposed licence; and
  - (iii) the appropriate fee.

(2) The Board must, within 90 days from the date of the application for authorisation to exploit a patent under subregulation (1), examine whether the requirements of section 57 and subregulation (1) are, *prima facie*, satisfied.

(3) If the Board finds that the requirements are –

- (a) satisfied, the Board must forthwith direct the applicant to serve a copy of the application on the patent owner, and invite the patent owner to, in writing, submit observations on the application to the Board within 90 days of the date of the invitation; or
- (b) not satisfied, the Board must reject the application and, in writing, notify the person who has applied for the authorisation, stating the grounds for the rejection.

(4) On receipt of a copy of an application referred to in subregulation (4)(a), the patent owner must forthwith, in writing, notify all –

- (a) beneficiaries of voluntary licences issued in respect of the patent; and
- (b) persons exploiting the patented invention under section 55, 56 or 57 of the Act,

of the application for authorisation, and the beneficiaries and licensees have the right to submit their own observations, in writing, to the Board within 60 days of the date of receiving the invitation referred in that subregulation.

(5) The Board must forthwith notify the person who has applied for the authorisation of any observations submitted under subregulations (3)(a) and (4).

(6) The Board must then convene a hearing to which the Board must invite the Registrar, the person who has applied for the authorisation, the patent owner, and the persons who submitted observations under subregulation (4), giving them not less than 30 days written notice of the date set for the hearing.

(7) After the hearing, if the Board finds that the conditions for the grant of a compulsory licence are –

- (a) fulfilled, the Board must grant the authorisation; or
- (b) not met, Board must refuse to grant the authorisation.

(8) The decision to grant or to refuse an authorisation must be in writing, must state the grounds on which it is based and in the case of a decision to grant the authorisation, must specify, in particular –

- (a) the period for which the authorisation is granted;
- (b) to which of the acts referred to in section 57 of the Act, other than importation, the authorisation extends;
- (c) if required, the time limit within which the beneficiary of the authorisation must commence working the patented invention; and
- (d) the terms regarding payment of remuneration.

(9) The Registrar must –

- (a) record and publish the decision to grant or to refuse the authorisation in the bulletin;
- (b) issue to the person who has applied for the authorisation, a compulsory licence authorising that person to exploit the patented invention pursuant to the authorisation; and
- (c) transmit a copy of the licence to the person who has applied for the authorisation, the owner of the patent and the persons who submitted observations under subregulations (4).

(10) An application, pursuant to section 57(10) or (11) of the Act, for the variation of the terms and conditions on which an authorisation to exploit a patent in the public interest was issued or for the termination of an authorisation to exploit a patent in the public interest must be submitted to the Board on Form P 18, and must be accompanied by –

- (a) a statement in duplicate of the facts on which the applicant relies and evidence in duplicate verifying the statement; and
- (b) the appropriate fee.

### **Cancellation of compulsory licence**

**58.** (1) The request for cancellation of a compulsory licence pursuant to section 61(3) of the Act or for the variation of a compulsory licence must be filed with Registration Office

on Form P 18, and must be accompanied by written confirmation that the licence has expired or been terminated and the appropriate fee.

- (2) The Registrar must publish the cancellation of a compulsory licence in the bulletin.

### **Endorsement of licence of right**

**59.** (1) An application for the endorsement of a licence of right pursuant to section 62(1) of the Act must be filed with the Registration Office on Form P 19.

(2) The verification which is required in terms of section 62(5) of the Act must be determined by the Registrar in the Administrative Instructions.

- (3) The Registrar must publish the endorsement of a licence of right in the bulletin.

### **Exploitation of patented invention by government or person authorised by government**

**60.** (1) Before making a decision under section 63 of the Act, the Board must –

- (a) consult the Registrar; and
- (b) if doing so would not prejudice the public interest, hold a hearing giving the owner of the patent, and any other persons whose participation the Registrar considers as necessary, 30 days' written notice of the date on which they may be heard,

and the owner of the patent and the other persons have the right to participate at the hearing.

(2) If the Board holds a hearing, the Board must make a decision after the hearing, in writing, stating the grounds on which it is based, and, if the Board has decided that the invention must be exploited under section 63 of the Act, stating the terms of exploitation, and must transmit the decision to the Registrar.

(3) The Registrar must record and publish the decision of the Board in the bulletin and, in writing, notify, the owner of the patent and the other participants in the hearing.

(4) If the decision of the Board is appealed against, the secretary of the Tribunal must notify the Registrar of the Tribunal's decision once it becomes final, and the Registrar must record the decision and publish it in the bulletin.

(5) The terms and conditions of the Decision of the General Council of the WTO, of August 30, 2003, on the implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, apply, whenever appropriate, to the decisions taken under section 63 of the Act in the context of access to pharmaceutical products.

### **Surrender of patent**

**61.** (1) An application by an owner of a patent offering to surrender the patent pursuant to section 64(1) of the Act must be filed with the Registration Office on Form P 20, and must be accompanied by the appropriate fee.

(2) If the Registrar finds that any person has an interest in the patent which interest is recorded in the register, the Registrar must in writing –

- (a) notify the person concerned;

- (b) invite that person to lodge any objection, if any, to the surrender within 60 days from the date of the notification; and
- (c) require the person to pay the appropriate objection fee.

(3) Any person may, within the period specified in subregulation (2), pursuant to section 64(2) of the Act lodge with the Registration Office an objection to the surrender of the patent on Form P 8.

(4) The Registrar may, at the request of any party concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of the offer of surrender.

(5) Where the Registrar decides to hold an oral hearing in respect of a request for surrender, the Registrar must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the notification.

- (6) If an objection is –
  - (a) not lodged pursuant to subregulation (3);
  - (b) lodged, but the person who objected fails to take part in the oral hearing; or
  - (c) lodged, but the objection is overruled by the Registrar,

the patent is considered to be revoked as from the date of receipt by the Registrar of the offer of surrender.

(7) If the owner of the patent fails to take part in the oral hearing, the Registrar may proceed to examine the objections to the surrender and make a determination.

(8) The Registrar must as soon as possible after the cancellation publish a notice of the cancellation in the bulletin.

### **Invalidation of patent**

**62.** (1) An application for the invalidation or partial invalidation of a patent right pursuant to section 65(1) of the Act must be submitted to the Tribunal on Form P 21, and must be accompanied by the appropriate fee and the necessary evidence in two copies.

(2) The application for invalidation must state in detail the grounds for the invalidation pursuant to section 65(3) of the Act, making reference to all the evidence as submitted, and indicate the item of evidence on which each ground is based.

(3) The notification of the application for invalidation to the Registrar pursuant to section 65(2) of the Act must be given on Form P 22.

(4) Where the application for invalidation does not comply with the provisions of section 65 of the Act, the Tribunal must refuse to accept it.

(5) Where the application for invalidation does not comply with the Act or this regulation, the Tribunal must notify the person making the application that the defect must be rectified within 30 days of the notification.

(6) If the application is not rectified within the time limit specified in subregulation (5), the application for invalidation must be considered to have been abandoned.

(7) After an application for invalidation is accepted by the Tribunal, the person making the application may add reasons or supplement evidence within 60 days from the date of filing of the application, but any additional reasons or evidence which are submitted after the specified time limit may be disregarded by the Tribunal.

(8) The Tribunal must send a copy of the application for invalidation of the patent right and copies of the relevant documents to the owner of the patent and invite the owner to present its or his or her observations within 60 days from the date that the application and documents were sent to the owner.

(9) The Tribunal must send any observations received from the patent owner to the person requesting the invalidation.

(10) In the course of the examination of the invalidation application, the patent owner may amend the claims, but may not broaden the scope of the patent protection.

(11) The Tribunal may, at the request of the parties concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of an application for invalidation.

(12) If the Tribunal decides to hold an oral hearing in respect of a request for invalidation, it must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the hearing.

(13) If the person requesting invalidation fails to take part in the oral hearing, the request for invalidation must be considered to have been abandoned.

(14) If the patent owner fails to take part in the oral hearing, the Tribunal may proceed to examine by default.

(15) In the course of the examination of a request for invalidation, the time limits specified by these regulations may be extended.

(16) The person applying for invalidation may withdraw the application before the Tribunal makes a decision on it.

(17) Where the person applying for invalidation withdraws the application or where the application for invalidation is considered to have been abandoned before the Tribunal makes a decision on it, the examination of the application for invalidation may be terminated.

(18) If, based on the examination work it has done, the Tribunal finds that it is able to make a decision of invalidation or invalidation in part of the patent, the examination procedure may not be terminated.

(19) The patent owner must, in writing, notify any licensee of the patent right, of any Tribunal or court proceeding instituted for the invalidation of the patent.

(20) The person requesting invalidation must in writing notify any beneficiaries of any licences granted under section 55, 56, 57 or 62 of any invalidation of the patent.

(21) The Tribunal must notify the Registrar of the Tribunal's final decision and the Registrar must record the final decision in the register, and as soon as possible publish it in the bulletin.

**Revocation of patent**

**63.** (1) Where the Board concludes that a patent is to be revoked in the public interest pursuant to section 68 of the Act, the Board must notify the patent owner in writing of the decision and must give the patent owner 30 days from the date of the notification to lodge objections to the decision, if the patent owner so wishes.

(2) The patent owner must respond to the notification within the time limit specified in the subregulation (1).

(3) If the patent owner so requests, the Board must hold an oral hearing and must send notification to the patent owner indicating the date and place of the hearing, and the date must not be less than 30 days from the date that the notification is served on the patent owner .

(4) If the patent owner fails to –

(a) respond to the notification given in terms of subregulation (1); or

(b) take part in the oral hearing after having been served with a notice issued under subregulation (3),

the patent must be considered to have been revoked from the date of the publication of the declaration in the *Gazette* under section 68(1) of the Act.

**International applications under Patent Cooperation Treaty**

**64.** (1) For the purposes of section 79(1)(a) of the Act, and subject to the provisions of rule 16bis of the Regulations made under the Patent Cooperation Treaty, the applicant must pay to the Registrar -

(a) the appropriate transmittal fee within one month of the date on which the international application was filed; and

(b) the international fee and the search fee specified in rules 15 and 16, respectively, of the Regulations made under the Patent Cooperation Treaty within the time limits specified therein.

(2) The applicant must pay the appropriate national fee referred to in section 83(1)(a) of the Act.

(3) The translation referred to in section 83(1)(b) of the Act must be filed within 180 days of the date of payment contemplated in subregulation (2) , and the contents of the translation referred to in that section must include -

(a) the description, if amended by any amendments annexed to the international preliminary examination report, as so amended;

(b) the claims, if amended under Article 19 of the Patent Cooperation Treaty, as so amended; and

(c) any textual matter on the drawings, if any, and if amended by any amendments annexed to that report, as so amended.

(4) Within 30 days of complying with section 83(1)(a) of the Act, the applicant must file proof of payment contemplated in subregulation (2) with the Registration Office.

(5) Within 180 days of complying with section 83(1)(a) of the Act, or within such further time as the Registrar may on request allow, the applicant must file notification of payment with the Registration Office.

(6) Where Namibia has, before the expiration of 19 months from the priority date referred to in Article 2(xi) of the Patent Cooperation Treaty, been elected for the purposes of an international preliminary examination the time limit applicable under Article 39 of the Patent Cooperation Treaty, as referred to in section 83(1)(a) of the Act, is 31 months from the priority date or filing date or such time that may be extended by the Registrar on request and payment of the appropriate fee which extended time may not exceed 90 days in total.

(7) Where the applicant fails to file a translation of the application referred in section 83(1)(b) of the Act or a translation of an amendment referred to in subregulation (3), the Registrar must request the applicant to furnish the missing translation within 90 days from date of the request.

(8) If the applicant fails to pay the national fee within the period specified in subregulation (6) or to provide the translation within the specified period in subregulation (7), the provisions of section 84 of the Act apply.

(9) Where the applicant has failed to comply with Rule 17.1 of the Regulations under the Patent Cooperation Treaty regarding a convention application, the applicant must file with the Registration Office a copy, certified to the satisfaction of the Registrar, of the priority document within 180 days of the applicant complying with section 83(1) of the Act or within such further period as the Registrar may, subject to the payment of the appropriate fee, on request allow, but which period may not exceed 90 days.

(10) If the priority document is in a language other than English, a translation thereof into English, verified to the satisfaction of the Registrar, must be filed with the Registration Office within 180 days of the applicant complying with section 83(1) of the Act or within such further period as the Registrar may, subject to the payment of the appropriate fee, on request subject to payment allow, but which period may not exceed 90 days.

(11) The applicant must as contemplated in section 83(2)(a) of the Act, appoint an agent within the 30 days of paying the national fee.

### **Utility model certificate**

**65.** (1) These regulations, subject necessary changes and modifications as may be required by the context, apply to utility model certificates, in accordance with sections 86 to 90 of the Act, but further subject to the following modifications –

- (a) the letter “P” in regulation 40(1) must be read as the letters “UM”;
- (b) for purposes of regulation 46, the examination must be limited to the requirements of novelty, industrial applicability and public order and morality.

(2) Where the Registrar grants a utility model application under section 87(3) of the Act, the Registrar must issue a copy of a utility model certificate on Form UM 1.

### **Conversion of utility model certificate application to patent application**

**66.** (1) An application for the conversion of a utility model application into an application for a patent pursuant to section 90 of the Act must be filed with the Registration Office on Form P 4, and must be accompanied by the appropriate fee.

(2) The Registrar must, within 60 days of the receipt of an application under subregulation (1), in writing, notify the applicant of the Registrar's decision and, where the Registrar refuses the application, the Registrar must specify the reasons for the refusal.

(3) Where the Registrar grants a patent under subregulation (2), the Registrar must issue to the applicant -

- (a) a copy of the patent on Form P 5; and
- (b) the certificate of grant on Form P 6.

### **Entries in register**

**67.** The Registrar must cause to be entered in the register in respect of every patent and utility model, the following information:

- (a) the filing date of the application;
- (b) the file number of the application and the file number of each individual inventor must be included in case of multiple inventors;
- (c) the date of grant of the patent or registration of the utility model, the patent number or registration number of the utility model and the date of the publication of the grant or registration;
- (d) the name, the address and the nationality of the applicant and the State in which the applicant is domiciled or the applicant's seat or establishment;
- (e) the name and business address of the agent;
- (f) the address for service;
- (g) the date on which the patent or the utility model registration expired or was invalidated;
- (h) any change in name, or address, or address for service in accordance with regulation 20 ;
- (i) any changes in ownership pursuant to section 48 of the Act and regulation 53;
- (j) a reference to the grant of a licence, if any;
- (k) the drawings of the patent or utility model;
- (l) particulars of claims of priority, changes in the name, the address or the nationality of the holder or in the State in which the holder is domiciled or has its, his or her seat or establishment;
- (m) a mention that a patent or utility model application has been divided into a divisional application pursuant to section 27 of the Act and regulation 36;
- (n) the notice of an amendment to the patent or utility model pursuant to section 40 of the Act and regulation 49;

- (o) renewal of the patent or utility model registration or restoration of the patent or utility model registration pursuant to sections 46 and 47 of the Act and regulations 51 and 52;
- (p) a surrender by the holder of a patent or utility model registration pursuant to section 64 of the Act and regulation 61;
- (q) the date and content of the decision of the Tribunal on the application or counter-claim for the invalidation of a patent or utility model registration pursuant to section 65 of the Act and regulation 62;
- (u) the revocation of a patent or utility model registration pursuant to section 68 of the Act and regulation 63; and
- (r) any other matter that the Administrative Instructions may require to be entered into the register.

### **Fees**

**68.** The fees to be paid in terms of this Part for the respective matters done in terms of the Act and this Part are set out in Part B of Annexure 1.

### **Forms**

**69.** The forms to be used for purposes of this Part are set out in Part B of Annexure 2.

## **PART 5 INDUSTRIAL DESIGNS**

### **Application for registration of design**

**70.** (1) An application for the registration of an industrial design pursuant to section 100(1) of the Act must be filed with the Registration Office on Form D 1, and must be -

- (a) signed by the applicant, or if there are multiple applicants, by each of those applicants or an authorised agent of the applicant or applicants; and
- (b) accompanied by the appropriate fee.

(2) The application must indicate each applicant's name, address, nationality, residence and telephone number, and if the applicant has appointed an agent, the name of that agent and the address of the agent's place of business.

### **Naming of creator**

**71.** (1) Where the applicant is -

- (a) the creator, the request for the registration of the design must contain a statement to that effect;
- (b) not the creator, the applicant must, if so requested by the Registrar under section 96 of the Act, and within the time period specified by the Registrar in the request, furnish a statement on Form D 2 justifying the applicant's right to the registration of the design.

(2) If the applicant fails to furnish the statement within the time period referred to in subregulation (1), the application must be considered to have been abandoned.

### **Drawings and number and size of representation of design**

**72.** (1) In relation to the drawings, photographs or representations referred to in section 100(1)(b) of the Act, the following must be filed:

- (a) if the industrial design is two-dimensional, four representations or four drawings or tracings, but, a specimen of the article embodying the design may be filed instead of a representation;
- (b) if the industrial design is three-dimensional, four representations or four drawings or tracings of each of the different sides of the industrial design; and
- (c) in case of a multiple application, four copies of each design.

(2) The representation of the design must consist of a graphic or photographic reproduction of the design, either in black and white or in colour.

(3) A representation, drawing, tracing or specimen of the industrial design must comply with the following requirements:

- (a) a representation, drawing or tracing of the industrial design may not exceed 10 centimetres x 20 centimetres;
- (b) a representation, drawing or tracing must be affixed on four sheets of cardboard of A4 size;
- (c) a drawing and a tracing must be in black ink; and
- (d) a specimen of an article embodying the design must be of a size not exceeding 20 centimetres x 20 centimetres x 20 centimetres.

### **Classification and indication of products**

**73.** (1) The applicant must classify the products on which the design is to be used in accordance with the International Classification adopted under Article 1 of the Locarno Agreement Establishing an International Classification for Industrial Designs signed on 8 October 1968, as revised.

(2) The indication of products must indicate clearly the nature of the products to which the industrial design is to be applied to.

### **Multiple design application**

**74.** (1) An application under regulation 70 may be a multiple application requesting the registration of two or more designs relating to articles in the same class of International Classification, or to a set of articles.

(2) The application must be divided, if the articles to which the designs relate belong to more than one class of the International Classification.

(3) For each design contained in a multiple application, the applicant must provide a representation of the design in accordance with regulation 72.

**Right of priority**

**75.** (1) The declaration of priority referred to in section 101 of the Act must be made at the time of filing the application for registration, and must indicate -

- (a) the date of the earlier application;
- (b) subject to subregulation (3), the file number of the earlier application;
- (c) the International Classification under which the design has been registered in the earlier application;
- (d) the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the State or States in which it was filed; and
- (e) where the earlier application is a regional or an international application, the office with which it was filed.

(2) The applicant may, at any time before the registration of the industrial design, amend the contents of the declaration referred to in subregulation (1).

(3) Where at the time of filing the declaration referred to in subregulation (1), the number of the earlier application is not known, that number must be furnished within the period of 90 days from the date on which the application containing the declaration was filed.

(4) The period for furnishing the certified copy of the earlier application, referred to in section 29(2) of the Act, and payment of the appropriate fee for claiming priority is 90 days from the date of the request by the Registrar, and where a copy has already been furnished for another application, the applicant may respond by making a reference to that other application.

(5) Where the earlier application is in a language other than English, the applicant must, within 60 days from the date of the request under section 29(2) of the Act, furnish an English translation of the earlier application.

(6) Where the name or title of the applicant who claims the right of priority is not the same as the one recorded in the copy of the earlier application, the applicant must submit a document certifying the assignment of the right of priority within 90 days from the date of the request by the Registrar.

(7) If the applicant fails to comply with the time limits specified in subregulation (3), (4), (5) or (6), the right of priority must be considered not to have been claimed.

(8) An applicant may claim one or more priorities for an application for the registration of a design, and, where multiple priorities are claimed, the priority period for the application must be calculated from the earliest priority date.

(9) Unless the Registrar requests otherwise, the earlier application and any translation thereof must be filed in one copy.

**Marking of application**

**76.** (1) On receipt, the Registrar must mark on each document making up the application, the actual date of receipt and the application number consisting of the letters [NA], the letter [D], the year in which the application documents were received, and a number allotted in the

sequential order in which applications are received, separated from one another by a stroke symbol ('/').

(2) Where any corrections or other later filed documents are received on different dates, the Registrar must also mark their actual date of receipt in the appropriate place of the request for the registration of the industrial design contained in Form D 1.

(3) The application number allotted under subregulation (1) must be quoted in all subsequent communications concerning the application.

### **Filing date**

**77.** (1) The Registrar must examine whether the application fulfills the requirements of section 102 of the Act.

(2) The invitation to file any correction, under section 34(2) of the Act, must be in writing and must specify the correction or corrections required and request the applicant to file the corrections within 60 days from the date of the invitation, together with the payment of the appropriate fee.

(3) If the applicant fails to comply with the time limit specified in subregulation (2), the application must be considered to have been abandoned.

(4) Once the Registrar accords a filing date as contemplated in section 102(1) of the Act, the Registrar must, in writing, notify the applicant and, if the application is treated as if it had not been filed under section 34(4) of the Act, the Registrar must notify the applicant in the same manner, specifying the reasons.

### **Amendment of design application**

**78.** (1) A request for the amendment of a design registration application pursuant to section 106(1) of the Act must be filed with the Registration Office on Form D 3, and must be accompanied by the appropriate fee.

(2) The applicant may apply for correction clerical of mistakes and symbol mistakes in the design application documents on Form D 3.

(4) The Registration Office may, on its own initiative, correct obvious clerical mistakes and symbol mistakes in the design application documents, but the Registration Office must notify the applicant of those corrections.

(5) When an amendment to the representations or to the statement indicating the type of products for which the design is to be used as indicated in section 106(1) of the Act and regulation 72, respectively, a replacement sheet in the form prescribed by these regulations must be submitted.

### **Withdrawal of application**

**79.** (1) An application for the withdrawal of a design registration application pursuant to section 100(5) of the Act must be by written declaration filed with the Registration Office.

(2) The written declaration referred to in subregulation (1) must be signed by each applicant or an authorised agent of each applicant.

(3) If an application is withdrawn under subregulation (1), the initial application fee is not refundable.

**Examination as to form and substance**

**80.** (1) On according a filing date, the Registrar must examine the application to ascertain whether it complies with the requirements of section 103 of the Act, and of these regulations.

(2) If the Registrar finds that the requirements referred to in subregulation (1) have not been complied with, the Registrar must in writing –

- (a) notify the applicant of the deficiency, and the reasons for the finding; and
- (b) invite the applicant to, writing, make changes to the application as may be necessary to satisfy the requirements of subregulation (1) within 60 days from the date of the invitation, together with the payment of the appropriate fee.

(3) If the applicant fails to make the changes within the time limits specified in subregulation (2)(b), the application must be considered to have been abandoned.

**Grant or refusal of application**

**81.** (1) The Registrar must consider changes to the application as are necessary to comply with the requirements of regulation 80, except that changes that would result in the introduction of matter not in substance disclosed in the initial application, or have the result of substantially changing the appearance of the design may not be accepted.

(2) If the applicant does not comply with the invitation to make changes as required under subregulation (2) of regulation 80, or where despite any such changes submitted by the applicant, the Registrar is still of the opinion that the requirements of subregulation (1) of that regulation have not been complied with, the Registrar must refuse the application.

(3) If the Registrar refuses to grant the application pursuant to subregulation (2), the Registrar must in writing notify the applicant of the decision to refuse the application attaching a copy of the search and examination report, if any, on which the decision is based.

(4) If the Registrar finds that the requirements of regulation 80 have been complied with, either initially or after changes as contemplated in subregulation (1), the Registrar must grant the application and in writing notify the applicant of the decision.

(5) If the Registrar grants the application, the Registrar must request the applicant to pay the appropriate registration and publication fees within 90 days from the date of the request.

(6) If the applicant fails to pay the fees referred to in subregulation (5), the application must be considered to have been abandoned.

**Registration of industrial design, publication, issuance of certificate**

**82.** (1) Subject to the payment of the registration and publication fee within the period referred to in regulation 81(5), the Registrar must pursuant to section 105(1) of the Act, record the registration in the register and issue to the applicant a certificate of registration of the design on Form D 4.

(2) The Registrar must allot to each industrial design a number in the sequential order of registration.

(3) The registration of an industrial design must include a representation of the industrial design and must specify -

- (a) the application number;
- (b) the registration number of the industrial design;
- (c) the name and address of the registered owner;
- (d) the name and address of the agent, if any;
- (e) the filling date, and if priority has been claimed, and the claim has been accepted, the priority date and the State or States in which or for which the earlier application was filed;
- (f) an indication of the kind of product or products for which the industrial design has been registered; and
- (g) the publication date and number.

(4) After the design has been registered, the Registrar must publish in the bulletin a reference to the registration and the reference must include the information listed in subregulation (3).

#### **Amendment of design registration, opposition and hearing**

**83.** (1) A request for the amendment of a design registration pursuant to section 106(1) of the Act must be filed with the Registration Office on Form D 3, and must be accompanied by the appropriate application fee.

(2) The Registrar must publish the request for an amendment in the bulletin, specifying that anyone wishing to oppose the amendment must do so within 90 days of the publication of the notice.

(3) Any person may, pursuant to section 106(3) of the Act, oppose a request for amendment made under subregulation (1) within the time limit specified in subregulation (2) by lodging Form D 5 with the Registration Office, together with payment of the appropriate fee and any accompanying supporting evidence, if any, in duplicate.

(4) The Registrar may extend the period referred to in subregulation (2) for a further 30 days period, if the Registrar so considers it necessary and appropriate, taking into account the particular circumstances of each case.

(5) On receipt of the notice of opposition, the Registrar must send a copy to the applicant, and the applicant may, on payment of the appropriate fee, submit a counter-statement on Form D 6 stating the grounds on which the applicant relies on in support of the request, together with supporting evidence, if any, in duplicate, within 30 days from the date that the notice of opposition was sent to the applicant.

(6) The Registrar may extend the period referred to in subregulation (5) for a further 30 days period, if the Registrar so considers it necessary and appropriate, taking into account the particular circumstances of each case.

(7) No amendment to a statement of opposition or counter-statement is allowed except with the leave of the Registrar and on such terms as the Registrar determines to be appropriate.

(8) On receipt of the counter-statement, or if no counter-statement is received within the period specified in subregulation (5), the Registrar must make a determination on the request.

(9) Before making a determination on the request, the Registrar may request for further information from the applicant or the person opposing the amendment.

(10) .Where there is opposition, the Registrar may, on request by any of the parties, or on the Registrar's own initiative, order that a hearing be held in the matter.

### **Duration of registered design**

**84.** (1) For the purposes of section 110 of the Act, the term of a design registration begins on the day of registration of the design and expires at midnight on the date that is 15 years after the filing date of the application for registration.

(2) Priority under section 101 of the Act or under the Hague Agreement as provided for in section 128 of the Act may not be taken into account in determining the term of a registered design.

### **Renewal fee**

**85.** (1) The payment of the annual renewal fee for the registration of an industrial design under section 111(1) of the Act must be made on Form D 7.

(2) The annual fee is payable during the 180 day period preceding the expiry of the design registration, failing which the appropriate surcharge fee must be paid within the period specified in subsection (3).

(3) The owner of a design registration has, on payment of a surcharge fee, a grace period of 180 days for the late payment of the renewal fee.

(4) On payment of an annual fee, and a surcharge fee, if payable, in accordance with this regulation, the Registrar must, within 30 days from the date on which payment is received, furnish or send to the owner of the design registration an acknowledgement of receipt.

(5) If the annual renewal fee or any surcharge fee is not paid in accordance with the provisions of subregulation (1) or (2), the design registration lapses and the registration must be removed from the register.

(6) The Registrar must publish a notification in the bulletin of the lapse of a design registration within a reasonable period after the expiration of the annual fee payment grace period.

(7) The Registrar must record the renewal of an industrial design registration in the register.

(8) The annual fee is not refundable

### **Restoration of registration**

**86.** (1) An application for restoration of design registration after lapse due to non-payment of the annual renewal fee or surcharge fee pursuant to section 112(1) of the Act, must be filed with the Registration Office on Form D 8, and must be accompanied by –

(a) a statement explaining the reasons for not renewing the design registration within the period specified in regulation 85(2) or (3); and

(b) the appropriate fee.

(2) An application under subregulation (1) must be made within 180 days from the date of removal of the registration from the register.

(3) The Registrar must consider the application, and if satisfied that the application complies with section 112(2) of the Act, the Registrar must publish the application for restoration of the registration in the bulletin, inviting persons who wish to oppose the application to do so within 90 days of publication of the application.

(4) Any person may, within the period specified in subregulation (3) and on payment of the appropriate fee, give notice of opposition by lodging Form D 5 with the Registration Office.

(5) On receipt of the notice of opposition, the Registrar, must send a copy to the applicant, and the applicant may, on payment of the appropriate fee, submit a counter-statement on Form D 6, stating the grounds on which the applicant relies on in support of the application, within 30 days from the date that the notice of opposition was sent to the applicant.

(6) On receipt of the counter-statement, or if no counter-statement is received within the period specified in subregulation (5), the Registrar must make a determination on the application.

(7) The restoration of the design registration may only be granted on payment of the unpaid annual fee and the appropriate penalty fee.

(8) Any party may request for an oral hearing or the Registrar may require the hearing and the hearing will be held.

#### **Change of ownership of design application or registration**

**87.** (1) A request for change of ownership of a design application or a registered design pursuant to section 113(2) of the Act must be -

- (a) filed with the Registration Office on Form D 9 within 60 days of the change in ownership; and
- (b) accompanied by the appropriate fee and the appropriate penalty fee, if the request is made after the expiry of the time limit specified in paragraph (a).

(2) If the Registrar finds that any person has an interest in the design application or design registration which interest is recorded in the register, the Registrar must -

- (a) notify the person concerned;
- (b) invite that person to lodge any objection, if any, to the change in ownership within 60 days of the notification; and
- (c) require the person to pay the appropriate objection fee.

(3) If there is an objection to the change in ownership, the Registrar must make a determination on the application or hold a hearing to determine the matter.

(4) The Registrar must publish all changes in design applications or registered design ownership in the bulletin.

- (5) The publication of the change in ownership must specify -
  - (a) the number of the application or registration concerned;

- (b) the filing date, the priority date, if any, and the date of registration;
- (c) the current owner and the new owner; and
- (d) the nature of the change of ownership.

### **Voluntary licences for design application or registration**

**88.** (1) An application for the recordal of a voluntary licence in respect of a design registration application or a design registration pursuant to section 116(2) of the Act must be –

- (a) made within 12 months of the conclusion of the licence contract;
- (b) filed with the Registration Office on Form D 10; and
- (c) accompanied by the voluntary licence contract and the appropriate fee.

(2) Failure to submit the application within the period specified in subregulation (1) will attract the appropriate penalty fee.

(3) A request for the cancellation of voluntary licence pursuant to subsection (4) of section 116 of the Act or the variation of a voluntary licence must be filed with the Registration Office on Form D 11, and must be accompanied by the appropriate fee and evidence of the expiry or termination of the licence as required under that subsection.

- (4) The Registrar must publish the cancellation of a voluntary licence in the bulletin.

### **Surrender of registration**

**89.** (1) An application by an owner of a design registration offering to surrender the design registration pursuant to section 120(1) of the Act must be filed with the Registration Office on Form D 12, and must be accompanied by the appropriate fee.

(2) If the Registrar finds that any person has an interest in the design registration which interest is recorded in the register, the Registrar must –

- (a) notify the person concerned;
- (b) invite that person to lodge any objection, if any, to the surrender within 60 days from the date of the notification; and
- (c) require the person to pay the appropriate objection fee.

(3) Any person may, pursuant to section 120(2) of the Act and within the period specified in subregulation (2), on payment of the appropriate fee, lodge with the Registration Office an objection to the surrender of the registration on Form D 5.

(4) The Registrar may, at the request of any party concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of the offer of surrender.

(5) If the Registrar decides to hold an oral hearing in respect of an application for surrender, the Registrar must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the notification.

- (6) If an objection is –

- (a) not lodged pursuant to subregulation (3);
- (b) lodged, but the person who objected fails to take part in the oral hearing; or
- (c) lodged but is overruled by the Registrar,

the design registration is considered to be revoked as from the date of receipt by the Registrar of the offer of surrender.

(7) If the owner of the design registration fails to take part in the oral hearing, the Registrar may proceed to examine the objections to the surrender and make a determination.

(8) The Registrar must as soon as possible after the cancellation publish a notice of the cancellation in the bulletin.

### **Invalidation of registered design**

**90.** (1) An application for the invalidation or partial invalidation of a design registration pursuant to section 121(1) of the Act must be submitted to the Tribunal on Form D 13, and must be accompanied by the appropriate fee and the necessary evidence in two copies.

(2) The application for invalidation must state in detail the grounds for seeking the invalidation pursuant to section 121(3) of the Act, making reference to all the evidence as submitted, and indicate the item of evidence on which each ground is based.

(3) The notification of the application for invalidation to the Registrar pursuant to section 121(2) of the Act must be given on Form D 14.

(4) Where the application for invalidation does not comply with the provisions of section 121 of the Act, the Tribunal must refuse to accept the application.

(5) Where the application for invalidation does not comply with the Act or this regulation, the Tribunal must notify the person making the application that the defect must be rectified within 30 days of the notification.

(6) If the application is not rectified within the time limit specified in subregulation (5), the application for invalidation must be considered to have been abandoned.

(7) After an application for invalidation is accepted by the Tribunal, the person making the application may add reasons or supplement evidence within 60 days from the date of filing of the application, but any additional reasons or evidence which are submitted after the specified time limit may be disregarded by the Tribunal.

(8) The Tribunal must send a copy of the application for invalidation of the design registration and copies of the relevant documents to the owner of the design registration and invite the owner to present its or his or her observations within 60 days from the date that the application and documents were sent to the owner.

(9) The Tribunal must send any observations received from the owner of the design registration to the person requesting the invalidation.

(10) In the course of the examination of the invalidation application, the owner of the design registration may amend the design protection, but may not broaden the scope of design registration protection.

(11) The Tribunal may, at the request of the parties concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of an application for invalidation.

(12) If the Tribunal decides to hold an oral hearing in respect of a request for invalidation, it must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the hearing.

(13) If the person requesting invalidation fails to take part in the oral hearing, the request for invalidation must be considered to have been abandoned.

(14) If the owner of the design registration fails to take part in the oral hearing, the Tribunal may proceed to examine by default.

(15) In the course of the examination of a request for invalidation, the time limits specified by these regulations may be extended.

(16) The person applying for invalidation may withdraw the application before the Tribunal makes a decision on it.

(17) Where the person applying for invalidation withdraws the application or where the application for invalidation is considered to have been abandoned before the Tribunal makes a decision on it, the examination of the application for invalidation may be terminated.

(18) If, based on the examination work it has done, the Tribunal finds that it is able to make a decision of invalidation or invalidation in part of the design registration, the examination procedure may not be terminated.

(19) The owner of the design registration must, in writing, notify any licensee of the design registration, of any Tribunal or court proceeding instituted for the invalidation of the design registration.

(20) The Tribunal must notify the Registrar of the Tribunal's final decision and the Registrar must record the final decision in the register, and as soon as possible publish it in the bulletin.

### **International deposits under Hague Agreement**

**91.** (1) The provisions of these regulations, including the time limits specified in these regulations, subject to –

- (a) necessary changes and modifications as may be required by the context; and
- (b) other additional requirements that are provided for in this regulation,

apply to the international registration of designs under the Hague Agreement.

(2) Where an international registration referred to in section 128 of the Act contains a designation of Namibia as contemplated in that section, the Registrar must –

- (a) accord the international application a filing date in accordance with regulation 77; and
- (b) conduct an examination on the international application in accordance with regulation 80.

(3) The Registrar must register a design referred to in section 128(4) of the Act in the register and, on payment of the appropriate registration and publication fees, issue to the owner of the design a certificate of registration of the design on Form D 4.

(4) An international application referred to in section 128(6) of the Act must be made on the application form issued by the International Bureau pursuant to the Regulations issued under the Hague Agreement in triplicate and must be accompanied by the appropriate fee.

### **Entries in register**

**92.** The Registrar must cause to be entered in the register in respect of every design the following information:

- (a) the date of filing the application;
- (b) the file number of the application and the file number of each individual design included in a multiple application;
- (c) the date of registration of the design, the registration number and the date of the publication of the registration;
- (d) the name, the address and the nationality of the applicant and the State in which the applicant is domiciled or the applicant's seat or establishment;
- (e) the name and business address of the agent;
- (f) the address for service;
- (g) the date on which the industrial design registration expired or was invalidated;
- (h) any change in name, or address, or address for service in accordance with regulation 20;
- (i) any changes in ownership pursuant to section 113 of the Act and regulation 87;
- (j) a reference to the grant of a license, if any;
- (k) the representation of the design;
- (l) an indication of the products by their names, with the numbers of the classes and subclasses of the International Classification;
- (m) particulars of claims of priority, changes in the name, the address or the nationality of the holder or in the State in which holder is domiciled or the holder's seat or establishment;
- (n) a mention that a multiple application or registration has been divided into separate applications or registrations pursuant to regulation 74;
- (o) the notice of an amendment to the design application or design registration pursuant to section 106 of the Act and regulations 78 and 83;
- (p) renewal of the registration or restoration of registration pursuant to sections 111 and 112 of the Act and regulations 85 and 86;

- (q) a declaration of surrender by the holder and the decision pursuant to section 120 of the Act and regulation 89;
- (u) the date and content of the decision of the Tribunal on the application or counter-claim for a declaration of invalidity pursuant to section 121 of the Act and regulation 90; and
- (r) any other matter that the Administrative Instructions may require to be entered into the register.

### **Fees**

**93.** The fees to be paid in terms of this Part for the respective matters done in terms of the Act and this Part are set out in Part C of Annexure 1.

### **Forms**

**94.** The forms to be used for purposes of this Part are set out in Part C of Annexure 2.

## **PART 6 TRADE MARKS, COLLECTIVE AND CERTIFICATION MARKS**

### **Classification of marks**

**95.** The Registrar must, subject to regulation 125, apply the International Classification of Goods and Services for the Purposes of the Registration of Marks adopted by the Nice Agreement of June 15, 1957, as revised, (referred in this Part as “the International Classification”) for all purposes relating to the registration and publication of marks.

### **Application for registration of mark**

**96.** (1) An application for the registration of a mark pursuant to section 140(1) of the Act must be filed with the Registration Office on Form TM 1, and must be -

- (a) signed by the applicant, or if there are multiple applicants, by each of those applicants or an authorised agent of the applicant or applicants; and
- (b) accompanied by the appropriate fee.

(2) An application may be made for the registration of a mark in respect of goods or services in one or more classes of the International Classification.

(3) The application must indicate each applicant’s name, address, nationality, residence and telephone number, and if the applicant has appointed an agent, the name of that agent and the address of the agent’s place of business.

### **Associated trade marks**

**97.** Where a mark is registered, subject to the payment of the appropriate association fee, as associated with any other mark or marks belonging to the same proprietor pursuant to section 162 of the Act, the Registrar must note in the register in connection with -

- (a) that mark, the numbers of the marks with which it is associated; and

- (b) each of the associated marks, the number of the newly registered mark as being an associated mark with each of them.

### **Reproduction of mark**

**98.** (1) If the applicant does not wish to claim any special graphic feature or colour, the mark must be reproduced in the space provided on Form TM 1 in normal script, for example, by typing the letters, numerals and signs in the application.

(2) In cases to which subregulation (1) applies, the use of small letters and capital letters is permitted and must be followed accordingly in publications of the mark and in the registration by the Registrar.

(3) In cases other than those referred to in subregulation (1), the mark must be reproduced on a sheet of paper in which case the –

- (a) sheet on which the mark is reproduced may not exceed A4 size (29 centimetres long, 7 centimetres high and 21 centimetres wide); and
- (b) reproduction of the mark must be of such quality as to enable it to be published.

(4) In cases to which subregulation (3) applies, the application must contain an indication to that effect.

(5) Where appropriate, an application for the registration of a mark may contain a description of the mark.

(6) Where registration of a three-dimensional mark is applied for, the application must contain an indication to that effect and in that case the representation -

- (a) must consist of a photographic reproduction or a graphic representation of the mark; or
- (b) may contain up to six different perspectives of the mark.

(7) Where registration in colour is applied for, the representation of the mark under subregulation (3) must consist of the colour reproduction of the mark and the colours making up the mark must also be indicated in words and a reference to a recognised colour code may be added.

(8) With all applications for the registration of a mark, three additional reproductions of the mark must be submitted in which case the –

- (a) reproduction of the mark on the application and the additional reproductions must be identical;
- (b) additional reproductions must in all cases be noted with all such particulars as may from time to time be required by the Registrar; and
- (c) particulars referred to in paragraph (b) must, if required, be signed by the applicant or the applicant's authorised agent.

(9) If the Registrar considers any reproduction of a mark to be unsuitable the Registrar may, at any time, require a suitable reproduction to be submitted to replace the unsuitable one.

(10) Where a drawing or other reproduction cannot be given in the aforesaid manner, a specimen or copy of the mark may be sent either of full size or on a reduced scale and in such a form as the Registrar may consider appropriate.

### **Transliteration and translation of mark**

**99.** Where a mark consists of or contains a word or words in characters other than Roman, the application on Form TM 1, and the additional reproductions of the mark must be accompanied, unless the Registrar otherwise directs, by a sufficient transliteration and translation to the satisfaction of the Registrar of each of such words, stating the language to which each word belongs.

### **Right of priority**

**100.** (1) The declaration referred to in section 142(1) of the Act must be made at the time of filing the application for the registration of a mark and must indicate -

- (a) the date of the earlier application;
- (b) subject to subregulation (3), the file number of the earlier application;
- (c) the State in which the earlier application was filed or, where the earlier application is a regional or an international application, the State or States in which it was filed; and
- (d) where the earlier application is a regional or an international application, the office with which it was filed.

(2) The applicant may, at any time before the registration of the mark, amend the contents of the declaration referred to in subregulation (1).

(3) Where at the time of filing the declaration referred to in subregulation (1), the number of the earlier application is not known, that number must be furnished within the period of 90 days from the date on which the application containing the declaration was filed.

(4) The period for furnishing the certified copy of the earlier application, referred to in section 142(2) of the Act, and payment of the appropriate fee for claiming priority is 90 days from the date of the request by the Registrar, and where a copy has already been furnished for another application, the applicant may respond by making a reference to that other application.

(5) Where the earlier application is in a language other than English, the applicant must, within 60 days from the date of the request under section 142(2) of the Act, furnish an English translation of the earlier application.

(6) Where the name or title of the applicant who claims the right of priority is not the same as the one recorded in the copy of the earlier application, the applicant must submit a document certifying the assignment of the right of priority within 90 days from the date of the request by Registrar.

(7) If the applicant fails to comply with the time limits set out in subregulation (3), (4), (5) or (6), the right of priority must be considered not to have been claimed.

(8) An applicant may claim one or more priorities for an application for the registration of a mark, and, where multiple priorities are claimed, the priority period for the application must be calculated from the earliest priority date.

(9) Unless the Registrar requests otherwise, the earlier application and any translation thereof must be filed in one copy.

### **Marking of application**

**101.** (1) On receipt, the Registrar must mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters [NA], the letter [M], the year in which the application documents were received, and a number allotted in the sequential order in which applications are received, separated from one another by a stroke symbol ('/').

(2) Where any corrections or other later filed documents are received on different dates, the Registrar must also mark their actual date of receipt in the appropriate place of the request for the registration of the mark contained in Form TM 1.

(3) The applications for registration of marks that form a set of associated marks, under regulation 97, must be marked in the same manner, but a two-letter reference must be added to the number referred to in subregulation (1).

(4) The application number allotted under paragraph (1) must be quoted in all subsequent communications concerning the application.

### **Filing date**

**102.** (1) Before according a filing date under subregulation (4), the Registrar must examine whether the application fulfills the requirements of section 143 of the Act.

(2) If the Registrar finds that the application does not comply with subregulation (1), the Registrar must, in writing, invite the applicant to file any correction, and must specify the correction or corrections required and request that these be filed within 60 days from the date of the invitation, together with the payment of the appropriate fee.

(3) If the applicant fails to comply with an invitation issued under subregulation (2), the application must be considered to have been abandoned.

(4) The Registrar must accord as the filing date of the application the date on which the following elements are received:

- (a) the full application documentation including the completed form in English;
- (b) a reproduction of the mark as described in regulation 98; and
- (c) the appropriate filing fee for each class of goods or services.

(5) Once the Registrar accords a filing date, the Registrar must in writing so notify the applicant and, if the application is treated as if it has been abandoned under subregulation (3), the Registrar must notify the applicant in the same manner, specifying the reasons.

### **Restriction or amendment of application**

**103.** (1) An application for the amendment of an application for the registration of a mark pursuant to section 144 of the Act must be filed with the Registration Office on Form TM 2, and must be accompanied by the appropriate fee.

(2) The applicant may restrict the application by removing applicable classes of goods or service according to the current International Classification.

(3) The applicant may apply for correction of clerical mistakes and symbol mistakes in the trade mark application documents on Form TM 2.

(4) The Registration Office may, on its own initiative, correct obvious clerical mistakes and symbol mistakes in the application documents, but the Registration Office must notify the applicant of those corrections.

(5) When an amendment to the representations of the mark or to the statement indication of the applicable class or classes of the International Classification referred to in section 140(1)(b) or (d) of the Act, a replacement sheet in the form prescribed by these regulations must be submitted.

### **Withdrawal of application**

**104.** (1) An application for the withdrawal of an application for the registration of a mark pursuant to section 144 of the Act must be by written declaration filed with the Registration Office on Form TM 2, and must be accompanied by the appropriate fee.

(2) The written declaration referred to in subregulation (1) must be signed by each applicant or an authorised agent of each applicant.

(2) If an application is withdrawn under subregulation (1), the initial application fee is not refundable.

### **Examination as to form and substance**

**105.** (1) On according a filing date, the Registrar must examine the application to ascertain whether it complies with the requirements of section 145 of the Act, and of these regulations.

(2) If the Registrar finds that the application does not comply with subregulation (1), the Registrar must, in writing, invite the applicant to file any correction, and must specify the correction or corrections required and request that these be filed within 60 days from the date of the invitation, together with payment of the appropriate fee.

(3) If the applicant fails to comply with an invitation issued under subregulation (2), the application must be considered to have been abandoned.

### **Acceptance or refusal of application**

**106.** (1) The Registrar must, within 180 days from the date of application and in writing, notify the applicant of a decision made in terms of section 146(1) of the Act and, if the Registrar refuses an application pursuant to section 146(1)(c) of the Act, the Registrar may provide the applicant with the grounds for refusal at same time with the notification of the decision.

(2) If the Registrar does not provide the grounds for refusal under subregulation (1), the applicant may, in writing and on payment of the appropriate fee, request for the grounds for refusal on Form TM 3 within 30 days from the date of the notification of the decision.

(3) The applicant may within 30 days from the date of the notification by the Registrar, or where subregulation (2) applies, within 30 days from the date of notification of the grounds for refusal by the Registrar and on payment of the appropriate fee, request for a hearing of the matter before the Registrar.

(4) If the Registrar accepts the application as contemplated in subsection (5) of section 146 of the Act, and the applicant –

- (a) does not accept the proposed amendments, modifications, conditions or limitations, the applicant must, within the time limit specified in subregulation (3), submit to the Registrar written arguments and apply for a hearing of the matter before the Registrar, failing which the application must be considered to have been abandoned as contemplated in that subsection; or
- (b) accepts the amendments, modifications, conditions or limitations, the applicant must, within the time limit specified in subregulation (3), notify the Registrar on in writing of the fact and amend the application accordingly.

(5) If the applicant applies for a hearing pursuant to subregulation (3) or (4)(a), the Registrar must as soon as is reasonably possible, notify the applicant of the date, time and place of the hearing which date must not be less than 30 days from the date of the hearing.

(6) On the date of the hearing the Registrar must hear the applicant, if present, and receive evidence from any other person or in documentary form which evidence is relevant for a determination of the matter and, the Registrar must determine the matter and notify the applicant of the decision.

(7) If the applicant, after having been duly notified of the hearing, fails to attend the hearing, the Registrar must determine the matter in the manner the Registrar considers fit.

(8) If the Registrar accepts the application under section 146(1)(a) or under section 146(5)(b) of the Act, or after a hearing pursuant to subregulation (6), the Registrar must, on payment of the appropriate publication fee by the applicant, publish the application as accepted in the bulletin.

- (9) The publication in the bulletin must contain -
- (a) the filing date and, where applicable, the priority date of the application;
  - (b) a representation of the mark;
  - (c) the goods or services in respect of which the registration of the mark is requested with an indication of the corresponding class or classes of the International Classification;
  - (d) the name and address of the applicant and agent, as appropriate; and
  - (e) the conditions including, limitations, disclaimer or endorsement subject to which the application was accepted, if any.

(10) If the applicant fails to pay the publication fee within the period stipulated by the Registrar in the notification of acceptance of the application, the application must be considered to have been abandoned.

### **Opposition to registration of mark**

**107.** (1) The notice of opposition referred to in section 147(1) of the Act must be lodged with the Registration Office on Form TM 4 within 60 days from the date of the publication in terms of regulation 106(8), and the notice must be accompanied by the appropriate fee.

(2) On receipt of a copy of the notice send to him or her in terms of section 147(1) of the Act, the applicant must, within 30 days of the notification, send to the Registrar a copy of the counter-

statement on Form TM 5, together with evidence in support of the grounds for the application and the appropriate fee.

(3) If the applicant fails to pay the fee referred to in subregulation (2), the application must be considered to have been abandoned.

(4) The person opposing the application may, on payment of the appropriate fee, lodge with the Registration Office, a replying statement in writing within 30 days of being furnished with the counter-statement as contemplated in section 147(5) of the Act, and may provide documentary or other evidence in support of the opposition.

(5) If the person opposing the application does not lodge a replying statement within the time limit specified in subregulation (4), the Registrar must proceed to set the date, time and place of the hearing which date must not be less than 30 days from the date of the hearing and inform the parties.

(6) On the date of the hearing the Registrar must hear the parties, if present, and receive evidence from any other person or in documentary form which evidence is relevant for a determination of the matter and, the Registrar must determine the matter and notify the parties of the decision.

(7) If either of the parties, after having been duly notified of the hearing, fails to attend the hearing, the Registrar must determine the matter in the manner the Registrar considers fit.

### **Registration of mark, publication and issuance of certificate**

**108.** (1) If the Registrar –

- (a) registers the trade mark as contemplated in section 148(1) of the Act, the Registrar must issue to the applicant, a certificate of registration on Form TM 6; or
- (b) refuses to register the trade mark as contemplated in section 148(2) of the Act, the Registrar must provide the applicant with written reasons for the decision.

(2) For purposes of section 148(3) of the Act, the time within which the applicant must complete the registration process is 180 days from the date of acceptance of the application in terms of section 146(1)(a) of the Act, unless the applicant has been given further time within which to complete the process in which case the applicant must complete the process within the time limit stipulated by the Registrar.

(3) For purposes of section 148(4) of the Act, the time within which the applicant must take steps that are available to him or her to complete the registration process is 210 days from the date of conditional acceptance of the application in terms of section 146(1)(b), 146(4) or 146(5)(b) of the Act, unless the applicant has been given further time within which to complete the process in which case the applicant must complete the process within the time limit stipulated by the Registrar.

(4) If the applicant fails to comply with subregulation (2) or (3) within the time limits specified in those subregulations, the application must be considered to have been abandoned.

### **ARIPO marks**

**109.** (1) For purposes of an examination under section 156(1)(b) of the Act, the Registrar must apply the provisions of the Banjul Protocol.

(2) If an application for the registration of an ARIPO trade mark does not comply with the formal requirements as contemplated in section 156(1)(c) of the Act, the Registrar must in writing

notify the applicant and invite the applicant to comply with the requirements within 90 days from the date of the invitation.

(3) If the applicant fails to comply with subregulation (2) within the time limits specified in that subregulation, the Registrar must refuse the application, and notify designated states through the ARIPO Office.

(4) Where an application complies with the formal requirements, the Registrar must notify the designated states through ARIPO Office.

### **Duration of trade mark registration**

**110.** (1) For the purposes of section 157 of the Act, the term of a trade mark registration begins on the day of the registration of the mark and expires at midnight on the date that is 10 years after the date of the application for the registration of the mark.

(2) Priority under section 142 of the Act or under the Madrid Protocol as provided for in section 199 of the Act may not be taken into account in determining the term of a registered trade mark.

### **Renewal fee**

**111.** (1) For purposes of section 158(3) of the Act, the Registrar must, not less than 90 days and not more than 180 days before the expiration of a 10 year period, send a notice on Form TM 7 to the registered owner, at the owner's address for service, of the expiration of the period and the date by which the renewal must be requested and the appropriate renewal fee to be paid.

(2) If the owner of the registered trade mark wishes to renew the registration, the owner must within the period specified in subregulation (1), request the Registrar on Form TM 8 for renewal of the registration and pay the appropriate renewal fee.

(3) If the owner of the registered trade mark fails to renew the registration of the trade mark within the period specified in subregulation (1) or within the grace period specified in section 158(2) of the Act, the owner of the trade mark is liable, if the owner subsequently requests for renewal of the registration, to pay the appropriate renewal as well as the appropriate surcharge fee.

(4) On receipt of the request for renewal and the appropriate renewal fee or, where applicable, the renewal fee and surcharge fee, the Registrar must renew the registration of the trade mark and issue to the owner a certificate of renewal on Form TM 9.

(5) If as a result of changes in the International Classification there have been changes in a class or classes of goods or services, the owner of the registered trade mark must, when submitting the renewal application, reclassify the goods and services in respect of which the mark is registered in accordance to the latest edition of the International Classification.

(6) If the owner of the registered trade mark fails to comply with the subregulation (5), the Registrar may refuse to renew the registration.

### **Restoration of registration**

**112.** (1) An application for the restoration of a registered trade mark after lapse due to non-payment of the renewal fee or surcharge fee pursuant to section 159(1) of the Act must be filed with the Registration Office on Form TM 10, and must be accompanied by –

- (a) a statement explaining the reasons for not renewing the trade mark within the period specified in regulation 111(1); and
  - (b) the appropriate fee.
- (2) An application under subregulation (1) must be made within 180 days from the date of lapse of the registration as contemplated in section 158(4) of the Act.
- (3) The Registrar must consider the application, and if satisfied that the application complies with section 159(2) of the Act, the Registrar must publish the application for restoration of the registration in the bulletin, inviting persons who wish to oppose the application to do so within 60 days of publication of the application.
- (4) Any person may, within the period specified in subregulation (3) and on payment of the appropriate fee, give notice of opposition by lodging Form TM 4 with the Registration Office.
- (5) On receipt of the notice of opposition, the Registrar, must send a copy to the applicant, and the applicant may, on payment of the appropriate fee, submit a counter-statement on Form TM 5, stating the grounds on which the applicant relies on in support of the application, within 30 days from the date that the notice of opposition was sent to the applicant.
- (6) On receipt of the counter-statement, or if no counter-statement is received within the period specified in subregulation (5), the Registrar must make a determination on the application.
- (7) The restoration of the trade mark registration may only be granted on payment of the unpaid renewal fee and the appropriate penalty fee.
- (8) Any party may request for an oral hearing or the Registrar may require the hearing and the hearing will be held.

#### **Alteration or amendment of mark**

- 113.** (1) An application for permission to alter a registered trade mark pursuant to section 160(1) of the Act must be filed with the Registration Office on Form TM 11, and must be accompanied by the appropriate application fee.
- (2) If the Registrar grants permission for the alteration, the Registrar must –
    - (a) publish the grant of the application for alteration in the bulletin; and
    - (b) where appropriate, in writing request the applicant to advertise the grant of the application for alteration in any other media that the Registrar considers appropriate in the circumstances.
  - (3) Any person who wishes to oppose the alteration of the trade mark pursuant to section 160(3) of the Act must lodge with the Registrar a notice of opposition on Form TM 4, together with the appropriate fee.
  - (4) The Registrar may extend the period referred to in section 160(3) of the Act for a further period of 30 days, if the Registrar considers it necessary and appropriate, taking into account the particular circumstances of each case.
  - (5) On receipt of the notice of opposition, the Registrar must send a copy to the applicant, and the applicant may, on payment of the appropriate fee, submit a counter-statement on Form TM 5, stating the grounds on which the applicant relies on in support of the application, together with

supporting evidence, if any, in duplicate, within 30 days from the date that the notice of opposition was sent to the applicant.

(6) The Registrar may extend the period referred to in subregulation (5) for a further period of 30 days, if the Registrar considers it necessary and appropriate, taking into account the particular circumstances of each case.

(7) No amendment to a statement of opposition or counter-statement is allowed except with the leave of the Registrar and on such terms as the Registrar determines to be appropriate.

(8) On receipt of the counter-statement, or if no counter-statement is received within the period specified in subregulation (5), the Registrar must make a determination on the application.

(9) Before making a determination on the request submitted, the Registrar may request for further information from the applicant or the person opposing the amendment.

(10) Where there is opposition, the Registrar may, on request by any of the parties, or on the Registrar's own initiative, order that a hearing be heard in the matter.

(11) A request for the Registrar to alter or amend the register pursuant to section 160(5) of the Act must be filed with the Registration Office on Form TM 12, and must be accompanied by the appropriate fee.

(12) If the Registrar grants the request, the Registrar must effect the changes in the register and publish the alteration or amendment in the bulletin.

(13) A request to change the name and address of a registered user of a trade mark pursuant to section 160(6) of the Act must be filed with the Registration Office on Form TM 12, and must be accompanied by the appropriate fee.

(14) An application pursuant to section 160(7) of the Act for the revision of the class or classes in which a trade mark is registered in order to accommodate an amendment to the International Classification must be filed with the Registration Office on Form TM 12, and must be accompanied by the appropriate application fee.

### **Change of ownership of trade mark application or registration**

**114.** (1) An application for the recording of a change of ownership of a trade mark application or a registered trade mark pursuant to section 161(2)(b) of the Act must be -

- (a) filed with the Registration Office on Form TM 13 within 60 days of the change in ownership; and
- (b) accompanied by the appropriate fee and the appropriate penalty fee, if the request is made after the expiry of the time limit specified in paragraph (a).

(2) If the Registrar finds that any person has an interest in the trade mark registration which interest is recorded in the register, the Registrar must -

- (a) notify the person concerned;
- (b) invite that person to lodge any objection, if any, to the change in ownership within 60 days of the notification; and
- (c) require the person to pay the appropriate objection fee.

(3) If there are objections, the Registrar must make a determination on the application or hold a hearing.

(4) On payment of publication fee, the Registrar must publish the change of ownership in the bulletin, specifying -

- (a) the mark or title of protection concerned;
- (b) the filing date, the priority date, if any, and the date of registration of the trade mark;
- (c) the current owner and the new owner; and
- (d) the nature of the change of ownership.

(5) This regulation must not be construed as permitting the assignment or cession of individual marks that are part of a set of associated marks whose transfer may only be effected by the cession or assignment of the series in its entirety.

#### **Application for dissolution of associated trade marks**

**115.** (1) An application to dissolve the association between two or more trade marks registered as associated trade marks pursuant to section 162(5) of the Act must be filed with the Registration Office on Form TM 14, and must be accompanied by the appropriate fee and a statement of the grounds on which the applicant relies on in support of the application.

(2) If the Registrar is satisfied that the application meets the requirements of section 162(5) of the Act, the Registrar must grant the application to dissolve the association and publish notice of the dissolution in the bulletin.

#### **Voluntary licences for trade mark application or registration**

**116.** (1) An application for the recordal of a voluntary licence in respect of a trade mark registration application or a trade mark registration pursuant to section 165(2) of the Act must be –

- (a) made within 12 months of the conclusion of the licence contract;
- (b) filed with the Registration Office on Form TM 15; and
- (c) accompanied by the voluntary licence contract and the appropriate fee.

(2) Failure to submit the application within the period specified in subregulation (1) will attract the appropriate penalty fee.

(3) A request for the cancellation of a voluntary licence pursuant to subsection (6) of section 165 of the Act or for the variation of a voluntary licence must be filed with the Registration Office on Form TM 16 and must be accompanied by the appropriate fee and evidence of the expiry or termination of the licence as required under that subsection.

(4) The Registrar must publish the reference to the cancellation of a voluntary licence in the bulletin.

(5) The Registrar has the authority to request the licensor to submit evidence that the licensor will adopt measures to ensure that the licensee will maintain or enhance the quality of goods or services designated by the mark in question.

**Registration as registered user**

**117.** (1) An application for registration as a registered user of a trade mark pursuant to section 171(1) of the Act must be filed with the Registration Office on Form TM 17, and must be accompanied by the appropriate fee and evidence that the proposed user is authorised to use the trade mark by the registered owner of the trade mark.

(2) If the Registrar registers a registered user following an application under subregulation (1), the Registrar must publish the registration in the bulletin.

**Cancellation or variation of registration as registered user**

**118.** (1) An application for the cancellation or variation of the registration of a registered user of a trade mark pursuant to section 173(1)(a) of the Act must be filed with the Registration Office on Form TM 18, and must be accompanied by the appropriate fee.

(2) The Registrar must publish in the bulletin the cancellation or variation of registration of a registered user pursuant to section 173 of the Act.

**Surrender of registration**

**119.** (1) An application by the owner of a registered trade mark requesting the Registrar to totally or partially cancel the registration of the trade mark pursuant to section 175 of the Act must be filed with the Registration Office on Form TM 19, and must be accompanied by the appropriate fee.

(2) If the Registrar finds that any person has an interest in the trade mark registration which interest is recorded in the register, the Registrar must –

- (a) notify the person concerned;
- (b) invite that person to lodge any objection, if any, to the surrender within 60 days from the date of the notification; and
- (c) require the person to pay the appropriate objection fee.

(3) Any person may, within the period specified in subregulation (2), lodge with the Registration Office an objection to the cancellation of the trade mark on Form TM 4.

(4) The Registrar may, at the request of any party concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of the request to cancel.

(5) If the Registrar decides to hold an oral hearing in respect of a request for cancellation, the Registrar must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the notification.

- (6) If an objection is –
- (a) not lodged pursuant to subregulation (3);
  - (b) lodged, but the person who objected fails to take part in the oral hearing; or
  - (c) lodged, but is overruled by the Registrar,

the trade mark is considered to be cancelled as from the date of receipt by the Registrar of the request to cancel.

(7) If the owner of the trade mark fails to take part in the oral hearing, the Registrar may proceed to examine the objections to the cancellation and make a determination.

(8) The Registrar must as soon as possible after the cancellation publish a notice of the cancellation in the bulletin.

### **Removal of trade mark for non-use or on becoming generic name**

**120.** (1) An application requesting the Registrar to remove, totally or partially, a trade mark from the register on the grounds of non-use of the trade mark pursuant to section 176(1) of the Act must be filed with the Registration Office on Form TM 20, and must be accompanied by the appropriate fee.

(2) An application to the Registrar to require the registered owner of a trade mark to disclaim or renounce any rights afforded by the trade mark or to remove the registration of the trade mark pursuant to section 177 of the Act must be filed with the Registration Office on Form TM 21, and must be accompanied by the appropriate fee.

(3) The Registrar must give notice of an application made under subregulation (1) or subregulation (2) to any person shown in the register to have an interest in the registered trade mark and invite that person to present objections to the removal, disclaimer or renunciation, as the case maybe, within 60 days from the date of notification of the application.

(4) Any person may, within the period specified in subregulation (3) and on payment of the appropriate fee, lodge with the Registrar an objection to the removal of the registration, disclaimer or renunciation, as the case maybe, of rights on Form TM 4.

(5) The Registrar may, at the request of any party concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of the offer of removal or disclaimer.

(6) If the Registrar decides to hold an oral hearing in respect of an application for removal or disclaimer, the Registrar must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the notification.

(7) If an objection is –

(a) not lodged pursuant to subregulation (4);

(b) lodged, but the person who objected fails to take part in the oral hearing; or

(c) lodged, but is overruled by the Registrar,

the Registrar must grant the application and order the removal of the trade mark from register or order the owner of the trade mark to disclaim or renounce any rights that are the subject matter of the application.

(8) If the owner of the trade mark fails to take part in the oral hearing, the Registrar may proceed to examine the objections to the removal or disclaimer and make a determination.

(9) The Registrar must, as soon as possible after the respective order, publish a notice of any removal or any amendment or disclaimer in respect of a registered trade mark in the bulletin.

**Invalidation of trade mark**

**121.** (1) An application for the invalidation or partial invalidation of a trade a mark registration pursuant to section 179(1) of the Act must be submitted to the Tribunal on Form TM 22, and must be accompanied by the appropriate fee and the necessary evidence in two copies.

(2) The application for invalidation must state in detail the grounds for seeking the invalidation pursuant to section 179(2) of the Act, making reference to all the evidence as submitted, and indicate the item of evidence on which each ground is based.

(3) The notification of the application for invalidation to the Registrar must be given on Form TM 23.

(4) Where the application for invalidation does not comply with the provisions of section 179 of the Act, the Tribunal must refuse to accept the application.

(5) Where the application for invalidation does not comply with the Act or this regulation, the Tribunal must notify the person making the application that the defect must be rectified within 30 days of the notification.

(6) If the application in not rectified within the time limit specified in subregulation (5), the application for invalidation must be considered to have been abandoned.

(7) After an application for invalidation is accepted by the Tribunal, the person making the application may add reasons or supplement evidence within 60 days from the date of filing of the application, but any additional reasons or evidence which are submitted after the specified time limit may be disregarded by the Tribunal.

(8) The Tribunal must send a copy of the application for invalidation of the registered trade mark and copies of the relevant documents to the owner of the trade mark and invite the owner to present its or his or her observations within 60 days from the date that the application and documents were sent to the owner.

(9) The Tribunal must send any observations received from the trade mark owner to the person requesting the invalidation.

(10) In the course of the examination of the invalidation application, the trade mark owner may amend the trade mark protection, but may not broaden the scope of trade mark protection.

(11) The Tribunal may, at the request of the parties concerned or in accordance with the needs of the case, decide to hold an oral hearing in respect of an application for invalidation.

(12) If the Tribunal decides to hold an oral hearing in respect of a request for invalidation, it must send notifications to the parties concerned, indicating the date and place of the hearing which date must not be less than 30 days from the date of the hearing.

(13) If the person requesting invalidation fails to take part in the oral hearing, the request for invalidation must be considered to have been abandoned.

(14) If the trade owner fails to take part in the oral hearing, the Tribunal may proceed to examine by default.

(15) In the course of the examination of a request for invalidation, the time limits specified by these regulations may be extended.

(16) The person applying for invalidation may withdraw the application before the Tribunal makes a decision on it.

(17) Where the person applying for invalidation withdraws the application or where the application for invalidation is considered to have been abandoned before the Tribunal makes a decision on it, the examination of the application for invalidation may be terminated.

(18) If, based on the examination work it has done, the Tribunal finds that it is able to make a decision of invalidation or invalidation in part of the trade mark, the examination procedure may not be terminated.

(19) The trade mark owner must, in writing, notify any licensee of the trade mark registration, of any Tribunal or court proceeding instituted for the invalidation of the trade mark.

(20) The Tribunal must notify the Registrar of the Tribunal's final decision and the Registrar must record the final decision in the register, and as soon as possible publish it in the bulletin.

### **Certification marks**

**122.** (1) Regulations 95 to 121 apply, subject to -

- (a) necessary changes or modifications that may be required by the context; and
- (b) other additional requirements or conditions that are provided for in this regulation,

to certification marks.

(2) Registration of a certification mark is subject to the following requirements and conditions:

- (a) an application for registration of a certification mark must designate the mark as a certification mark;
- (b) the application must be accompanied by a copy of the rules or regulations governing the use of the certification trade mark, certified by the person or legal entity in charge of the mark's usage;
- (c) the rules or regulations must –
  - (i) indicate who is authorised to use the mark;
  - (ii) define the common characteristics or quality of goods or services to be certified by the mark;
  - (iii) indicate how the certifying body is to test those characteristics and to supervise the use of the mark;
  - (iv) provide for the exercise of effective control of the use of the mark in compliance with the rules or regulations;
  - (v) set out the fees, if any, to be paid in connection with the operation of the mark;

- (vi) provide for sanctions for use of the mark contrary to the rules or regulations; and
- (vii) indicate the procedures for resolving disputes.

(3) Publication of the registration of a certification mark pursuant to section 150 of the Act must include a summary of the rules or regulations accompanying the application for registration of the certification mark.

(4) The registered owner of a certification mark must, pursuant to section 188(4) of the Act and on payment of the appropriate fee, notify the Registrar on Form TM 24 of any changes made in respect of the rules or regulations.

(5) Before registering any amended rules or regulations, the Registrar may in any case where it appears to be expedient to do so cause them to be published in the bulletin for comment by the public.

(6) The Registrar must record all notifications of changes in the register, and changes in the rules or regulations have no effect until they are so recorded.

(7) The rules or regulations governing the use of a registered certification mark are open to public inspection in the same way as the register.

(8) The registration of a certification trade mark, or an application for such registration, may not be the subject of a licence contract other than a licence granted to any person in terms of the rules governing the use of such marks as contemplated in section 188(1) and (2) of the Act.

(9) For the purposes of use of the certification mark in connection with section 176 of the Act, the registered owner of a certification mark may use the mark itself or himself or herself provided it is also used by other authorised persons in accordance with the rules or regulations governing such use, and the use by those persons is deemed to be use by the registered owner.

### **Collective marks**

**123.** (1) Regulations 95 to 121 apply, subject to -

- (a) necessary changes or modifications that may be required by the context; and
- (b) other additional requirements or conditions that are provided for in this regulation,

to collective marks.

(2) Registration of a certification mark is subject to the following requirements and conditions:

- (a) an application for registration of a certification mark must designate the mark as a collective mark;
- (b) the application must be accompanied by a copy of the rules or regulations governing the use of the collective trade mark, certified by the person or legal entity in charge of the mark's usage;
- (c) the rules or regulations must –
  - (i) indicate who is authorised to use the mark;

- (ii) define the common characteristics or quality of goods or services on which the mark is to be used;
- (iii) indicate how the certifying body is to test those characteristics and to supervise the use of the mark;
- (iv) provide for the exercise of effective control of the use of the mark in compliance with the rules or regulations;
- (v) set out the fees, if any, to be paid in connection with the operation of the mark;
- (vi) provide for sanctions for use of the mark contrary to the rules or regulations; and
- (vii) indicate the procedures for resolving disputes.

(3) Publication of the registration of a collective mark pursuant to section 150 of the Act must include a summary of the rules or regulations accompanying the application for registration of the collective mark.

(4) The registered owner of a collective mark must, pursuant to section 188(4) of the Act and on payment of the appropriate fee, notify the Registrar on Form TM 24 of any changes made in respect of the rules or regulations.

(5) Before registering any amended rules or regulations, the Registrar may in any case where it appears to be expedient to do so cause them to be published in the bulletin for comment by the public.

(6) The Registrar must record all notifications of changes in the register, and changes in the rules or regulations have no effect until they are so recorded;

(7) The rules or regulations governing the use of a registered collective mark are open to public inspection in the same way as the register.

(8) The registration of a collective trade mark, or an application for such registration, may not be the subject of a licence contract other than a licence granted to any person in terms of the rules governing the use of such marks as contemplated in section 188(1) and (2) of the Act.

(9) For the purposes of use of the collective mark in connection with section 176 of the Act, the registered owner of a collective mark may use the mark itself or himself or herself provided it is also used by other authorised persons in accordance with the rules or regulations governing such use, and the use by those persons is deemed to be use by the registered owner.

### **International registrations under Madrid Protocol**

**124.** (1) The provisions of these regulations, including the time limits specified in these regulations, subject to –

- (a) necessary changes and modifications as may be required by the context; and
- (b) other additional requirements that are provided for in this regulation,

apply to the international registration of marks under the Madrid Protocol.

(2) Where an international registration referred to in section 200 of the Act contains a designation of Namibia as contemplated in that section, the Registrar must –

- (a) accord the international application a filing date in accordance with regulation 102; and
- (b) conduct an examination on the international application in accordance with regulation 105.

(3) The Registrar must register the trade mark referred to in section 200(11) of the Act in the register and, on payment of the appropriate registration and publication fees, issue to the owner of the trade mark a certificate of registration of the trade mark on Form TM 6.

(4) An international application referred to in section 200(12) of the Act must be filed with the Registration Office in triplicate, and must be accompanied by the appropriate fee.

### **Change of classification of mark**

**125.** (1) The Registrar may amend an entry in the register which relates to the classification of a registered trade mark so that it accords with the current International Classification.

(2) In order to reclassify the specification of a registered trade mark founded on an amendment of the International Classification of Goods and Services for the Purposes of the Registration of Marks adopted by the Nice Agreement of June 15, 1957, the Registrar may make such amendments to entries on the register as the Registrar considers necessary for the purposes of reclassifying the specification of the registered trade mark.

(3) The Registrar must give the proprietor of the mark written notice of the proposals for amendments and must advise the proprietor that -

- (a) the proprietor may make written objections on Form TM 25 to the proposals, within 90 days of the date of the notification, stating the grounds for the objections; and
- (b) if no written objections are received within the period specified the Registrar will publish the proposals and the proprietor will not be entitled to make any objections to the proposals upon such publication.

(4) If the proprietor makes no written objections within the period specified in subregulation (3)(a), or at any time before the expiration of that period, gives the Registrar written notice of the proprietor's intention not to make any objections, the Registrar must as soon as practicable after the expiration of that period or upon receipt of the notice publish the proposals in the bulletin.

(5) Where the proprietor makes written objections within the period specified in subregulation (3)(a), the Registrar must, as soon as practicable after the Registrar has considered the objections, publish the proposals or, where the Registrar has amended the proposals, publish the proposals as amended.

### **Entries in register**

**126.** The Registrar must cause to be entered in the Register in respect of every trade mark the following information:

- (a) the date of filing the application;

- (b) the file number of the application and the file number of each individual mark included in a multiple application;
- (c) the date of registration of the trade mark, the registration number and the date of the publication of the registration;
- (d) the name, the address and the nationality of the applicant and the State in which the applicant is domiciled or applicant's seat or establishment;
- (e) the name and business address of the agent;
- (f) the address for service;
- (g) the date on which the trade mark registration expired or was invalidated;
- (h) any change in name, or address, or address for service in accordance with regulation 20;
- (i) any changes in ownership pursuant to section 161 of the Act and regulation 114;
- (j) a reference to the grant of a licence, if any;
- (k) the representation of the mark;
- (l) an indication of the products by their names, with the numbers of the classes and subclasses of the International Classification;
- (m) particulars of claims of priority, changes in the name, the address or the nationality of the holder or in the State in which the holder is domiciled or the holder's seat or establishment;
- (n) a mention that a multiple application or registration has been divided into separate applications or registrations pursuant to regulation 96(2);
- (o) the notice of an amendment to the trade mark pursuant to section 160 of the Act and regulation 113;
- (p) renewal of the registration or restoration of registration pursuant to section 158 of the Act and regulation 111;
- (q) a declaration of surrender by the holder and the decision pursuant to section 175 of the Act and section 119;
- (u) the date and content of the decision of the Tribunal on the application or counter-claim for declaration of invalidity pursuant to section 179 of the Act and regulation 121; and
- (r) any other matter that the Administrative Instructions may require to be entered into the register.

## **Fees**

**127.** The fees to be paid in terms of this Part for the respective matters done in terms of the Act and this Part are set out in Part D of Annexure 1.

**Forms**

- 128.** The forms to be used for purposes of this Part are set out in Part D of Annexure 2.

**PART 7**  
**REGISTER AND RELATED MATTERS**

**Copies of documents**

**129.** The fees payable for obtaining copies of documents issued by the Registrar or filed or lodged with Registrar as contemplated in section 205 of the Act and these regulations are set out in Part A of Annexure 1.

**Inspections of licence contracts**

**130.** The file relating to a licence contract may be inspected and extracts obtained from the file only with the written permission of the licensor and licensee.

**Discretionary powers of Registrar**

**131.** (1) Before exercising any discretionary power given to the Registrar under section 206 of the Act, any other provision of the Act or under these regulations, the Registrar must notify all interested persons, in writing and where necessary give those persons the opportunity to be heard, and indicate a time limit, which may not be less than 30 days, for filing a request for a hearing.

(2) The request for a hearing is subject to payment of the appropriate fee.

(3) On receipt of a request, the Registrar must give the person applying, and any other interested persons, not less than 30 days' written notice, of the date and time of the hearing.

**Dispensation by Registrar**

**132.** Where, under these Regulations, any person is to do any act or thing or to sign any document or to make any affidavit on his or her behalf or on behalf of any person or body corporate, or any document or evidence is required to be produced or filed, and it is shown to the satisfaction of the Registrar that from any reasonable cause that the person is unable to do that act, or that such document or evidence cannot be produced or filed, the Registrar may, subject to such terms as the Registrar considers fit, dispense with the doing of any the act, or the production or filing of the act, thing, document, affidavit or evidence.

**Correction of errors**

**133.** (1) A request for the correction of an error in any document filed or lodged with the Registration Office or an error in the register pursuant to section 209 of the Act must be –

- (a) in writing;
- (b) filed with the Registration Office; and
- (c) accompanied by the appropriate fee.

(2) The Registrar must, in writing, communicate any request for a correction or a correction by the Registrar to all interested persons, and where considered necessary, the Registrar may publish the request or correction in the bulletin.

(3) No fee is payable under this regulation for a correction if the error was made or caused by the Registration Office.

### **Rectification of entries**

**134.** (1) A request for the rectification of an error in the register pursuant to section 210 of the Act or these regulations must be filed with the Registration Office on Form G 3, and must be accompanied by the appropriate fee.

(2) No fee is payable under this regulation for a rectification, if the error was made or caused by the Registration Office.

### **Time limits and extensions thereof**

**135.** (1) Where it is not otherwise stipulated in the Act or in these regulations, all acts by the Registrar or by any applicants or an interested third party must be performed within 90 days from the date of the communication or event that has resulted in the performance of the act.

(2) Subregulation (1) does not apply to the examination of any application as to form or substance under any provision of these regulations.

(3) The time limits specified in these regulations may, except where otherwise indicated, on notice to the parties and other interested persons and on such terms that Registrar considers appropriate, be extended by the Registrar up to a maximum of 180 days on request.

(3) At any stage of any process or proceedings before the Registrar, the Registrar may direct that such documents, information or evidence as the Registrar may require be furnished within the period of the time specified in subregulation (1).

### **Service of documents**

**136.** (1) Any application, notice or other document authorised or required to be filed or lodged with, or served on, the Registration Office or the Registrar must be addressed to the Registrar.

(2) Any application, notice or document referred to in subregulation (1) may be send through the post and –

(a) must be considered to have been filed, lodged, given or served at the time when it would be delivered in the ordinary course of the mail; and

(b) may not be considered to have been send until it is actually received in the Registration Office.

(3) Subregulation (2)(b) does not apply to the according of a filing date.

(4) In proving service by post, it is sufficient to prove that the letter containing the application, notice or other document was properly addressed and sent by registered mail.

(5) Any application, notice or document addressed to the Registration Office or to the Registrar, other than an application for the grant or registration of an industrial property right pursuant to the Act or these regulations, may be transmitted to the Registration Office or the Registrar by electronic mail in which case the electronic mail must be considered to be received by the Registrar on the day it is transmitted.

- (6) Communication in respect of an industrial property right must be in writing.
- (7) Only documents relating to the same application may be included in one letter.
- (8) Each communication addressed to the Registration Officer or the Registrar must deal with only one application for the grant or registration of an industrial property right or in case where there are several classes of registration, with one registered right in one class.
- (9) Subregulation (8) does not apply in respect of -
- (a) a change in the name or address of an applicant for the grant or registration of more than one industrial property right;
  - (b) a change in the name or address of a registered owner of more than one registered industrial property right;
  - (c) an application to cancel a registration;
  - (d) a transfer or other document affecting the rights to an application for the grant or registration of an industrial property right or the rights to a registered industrial property right; and
  - (e) an appointment of a representative for service or a change in the name and address of a representative for service.
- (10) Any address required to be furnished pursuant to the Act or these regulations must be a complete mailing address and must include the street name and number, where one exists, and the postal code.
- (11) Except where an application for the grant or registration of an industrial property right is filed for the first time, any document which is submitted to and any formality which is done through or before the Registration Office, the application number or the patent number or registration number, the title of the invention and the name of the applicant or the right holder, as appropriate, must be indicated.

### **Registration and electronic-filing**

**137.** (1) Despite anything to the contrary in these regulations, the Board must by notice in the *Gazette* and in the bulletin determine the date on which the e-filing system in terms of these regulations comes into operation.

(2) As from the date determined under subregulation (1) every person who files or lodges an application, notice or other document in terms of these regulations must file or lodge the original of the application, notice or document electronically with the Registrar by making use of the e-filing system made available by the Registration Office.

(3) The filing or lodging of any application, notice or document referred to in subregulation (2) must be done by a registered user on the e-filing system, unless the Registrar directs otherwise.

(4) An agent representing an applicant or an industrial property right holder must register as user of the e-filing system by making the necessary application which is subject to such terms and conditions as provided for in the Administrative Instructions.

(6) Service of any application, notice or document on the Registration Office, the Registrar or on any person must be done through the e-filing system as long as both the party effecting service and the party on whom service is to be effected are represented by agents who are registered users.

(7) The administrative policies and procedures contained in the Administrative Instructions published by the Registrar from time to time form part of these regulations.

(8) A party who files or lodges any application, notice or document in the Registration Office through e-filing system must keep in that person's custody and control the original hard copy of that application, notice or document and must produce them to the Registrar or the Tribunal on being required by the Registrar or the Tribunal to do so.

(9) The application, notice or document filed or lodged and kept in terms of subregulation (8) must be available for the duration of the application in which it has so been filed or lodged and must be kept for a period of at least five years after the application is considered finalised in terms of these regulations.

(10) An agent who is a registered user of the e-filing system must keep an account with the Registration Office for payment of the fees for the purposes of filing or lodging through the e-filing system.

### **Hearing before Registrar**

**138.** (1) The request for a hearing before the Registrar pursuant to the Act or these regulations must be filed on Form G 4, and must be accompanied by the appropriate fee.

(2) On receipt of the request, the Registrar must give the person applying, and any other interested persons, not less than 30 days' notice of the date and time of the hearing on Form G 5.

(3) Before hearing any party that desires to be heard in any proceedings -

(a) the Registrar may direct that the parties to the proceedings attend a pre-hearing review at which the Registrar may give such directions as to the conduct of the hearing; and

(b) the Registrar must give the parties not less than 14 days' notice of the date of the pre-hearing review on Form G 5.

(4) At the hearing, the Registrar may dispense with oral evidence and decide the matter on the basis of filed or lodged affidavits and other documentary evidence filed or lodged with the Registrar.

(5) The Registrar may, where the Registrar considers it fit, in any particular case, take oral evidence *in lieu* of or in addition to any evidence referred to in subregulation (4), and must allow any witness to be examined or cross-examined on the witness's affidavit or declaration.

(6) Proceedings before the Registrar are to be conducted as informally and expeditiously and in accordance with these regulations and the requirements of natural justice.

### **Evidence**

**139.** (1) Where under these regulations evidence by any person may be filed or lodged, it must be by way of affidavit or equivalent statutory declaration made under any law of a country other than Namibia.

(2) Any affidavit filed or lodged under the Act or these regulations must be made before any officer authorised by law in any part of Namibia to administer an oath or affirmation.

(2) Affidavits or statutory declarations made outside Namibia must be authenticated by an authorised Namibian consulate official or a notary public.

## PART 8 INDUSTRIAL PROPERTY AGENTS

### Agents

**140.** (1) All communications to the Registrar relating to applications for the grant or registration of industrial property rights may be signed by, and any attendances at the Registration Office may be made by, an agent of the applicant, but, where required, the Registrar may require the signature or presence of an applicant, objector or other person.

(2) Where the address of an agent has been used as the address for service in respect of any entry in the register and that agent changes his or her address the agent must, as soon as is practical and on payment of the appropriate fee, apply to the Registrar on Form G 6 for the change to be published in the bulletin.

### Register of agents

**141.** Any register of agents that was established by and is being maintained under any of the laws repealed by section 239 of the Act and any regulation made thereunder, subject to such alterations, modifications and changes that may be necessary to give effect to provisions of the Act or these regulations, continues to exist as if it were a register of agents contemplated in section 212(1) of the Act.

### Registration of agents

**142.** (1) An application for registration as an agent pursuant to section 212(2) of the Act must be filed with the Registration Office on Form G 7, and must be accompanied by –

- (a) copies of the documents or other proof which entitles the person to be registered as an agent, duly certified by a person authorised to do so by the law of Namibia; and
- (b) the appropriate fee.

(2) If the Registrar is satisfied that the person meets the requirements for registration under section 211(4) or 212 of the Act, the Registrar, on payment of the appropriate fee, must –

- (a) enter the name of the person in the register;
- (b) issue a certificate of registration to that person on Form G 8; and
- (c) publish a notice of the registration of that person in the bulletin.

### Removal of agent from register

**143.** (1) An application to the Tribunal for the removal of an agent from the register pursuant to section 213(2) of the Act must be submitted to the Tribunal on Form G 9, and must be accompanied by details of the grounds on which the removal of the agent is sought and any supporting evidence, if available.

(2) The application referred to in subregulation (1) must be served on the agent in accordance with the rules of the Tribunal made under section 227 of the Act.

(3) Where the name of an agent is removed from the register pursuant to section 213 of the Act, the Registrar must publish a notice of the removal in the bulletin

## PART 9 INDUSTRIAL PROPERTY TRIBUNAL

### Appointment of members

**144.** (1) As soon as is reasonably possible after the appointment of members of the Tribunal pursuant to section 215(2) of the Act, the -

- (a) Minister must announce the names of the appointed members and their dates and periods of appointment in the *Gazette*; and
- (b) Registrar must announce the names of the appointed members and their dates and periods of appointment in the bulletin.

(2) Failure to publish the appointments in terms of subregulation (1) does not invalidate the appointment.

### Conditions of appointment and tenure of office

**145.** A member of the Tribunal is appointed –

- (a) on such terms and conditions as the Minister may determine; and
- (b) for a term of five years, but is, on the expiration of that term, eligible for re-appointment.

### Vacation of office and filling of vacancies

**146.** (1) A member of the Tribunal vacates office as member, if the member -

- (a) resigns by giving not less than 30 days' written notice to the Minister; or
- (d) is removed from office under subsection (2).

(2) The Minister may remove a member from office -

- (a) if the member is permanently incapable of performing his or her duties;
- (b) for neglect of duty; or
- (c) for dishonourable conduct.

(3) The Minister may only so remove a member from office after giving notice to such member and after affording the member a reasonable opportunity to make representations.

(4) Any vacancy that occurs on the Tribunal must be filled by the appointment of another member in accordance with the provisions of section 215(2) of the Act, and any person so appointed holds office for the unexpired portion of the period of office of the member in whose place he or she is appointed.

### **Suspension of member**

**147.** The Minister may suspend a member from office without complying with regulation 146(3), if the Minister is satisfied that the member is guilty of dishonesty, gross misconduct or other unbecoming or inappropriate conduct such that it is necessary to act expeditiously in order to protect the integrity of the Tribunal, but the Minister must give notice to the member as soon as practicable thereafter and consider any representations made by the member on the matter.

### **Remuneration**

**148.** A member of the Tribunal, who is not in full time service of the State is entitled to be paid out of the funds allocated by Parliament for the purposes of the Tribunal, such remuneration and allowances as may be determined by the Minister with the approval of the Minister responsible for finance but, any member of the Tribunal may be reimbursed for any reasonable costs or expenditure that are not recoverable by the member from any other source.

### **Oath or affirmation by member of Tribunal**

**149.** (1) The oath or affirmation referred to in section 216 of the Act must be in the following form:

“I, ..... do hereby  
(full name)

swear / solemnly and sincerely affirm and declare that I will in my capacity as a member of the Industrial Property Tribunal administer justice to all persons alike, without fear, favour or prejudice, and as the circumstances in any particular case may require, in accordance with the laws of the Republic of Namibia.”.

(2) An oath or affirmation in terms of subregulation (1) must be made or taken before the Judge-President of the High Court of Namibia or any other judge of that Court designated by the Judge-President.

### **Assessors**

**150.** (1) An assessor referred to in section 218 of the Act is appointed –

- (a) on such terms and conditions as the Minister may determine; and
- (b) for a term of five years, but is, on the expiration of that term, eligible for re-appointment.

(2) An assessor is entitled to be paid out of the funds allocated by Parliament for the purposes of the Tribunal, such remuneration and allowances as may be determined by the Minister with the approval of the Minister responsible for finance.

**ANNEXURE 1  
FEES**

**PART A  
GENERAL FEES**

Description	Fee N\$
1. Copy of extracts from the register	10
2. Copy of any lost documents or certificate	10
3. Consultation of register	10
4. Inspection of official file containing information	50
5. Change or alteration of particulars in register	50
6. Fee for late filing of documents	150
7. Surcharge or penalty for late payment of fee	300
8. Search fees	50
9. Application for extension of time	100
10. Certified copies of extracts of register or documents	50
11. Request for hearing before Registrar	200
12. Request for correction of an error in any document	50
13. Request to rectify register	50
14. Regional and international applications: administration fee	200
14. Registration or registered under: e-filing system	200
16. Application for registration as agent	200
17. Registration as agent	100
18. Application for removal of agent from register	200

**PART B  
PATENTS AND UTILITY MODELS**

Description	Fee N\$
1. Application fee	
Patent	1000
Utility model	500
2. Divisional application fee	500
3. Multiple dependent claims	200
4. Claiming priority	200
5. Post-dating of application	500
6. Corrections to application before filing date	50
7. Application amendment of application	200
8. Withdrawal of application	200
9. Conversion of a patent application to application for a utility model certificate	500
10. Corrections to application during examination as to form	50
11. Amendments to application during examination as to substance	200
12. Registration and publication	500
13. Request for amendment of patent	500
14. Opposition to amendment/restoration/surrender of patent	200
15. Counter-statement	200
16. Application for restoration of patent	500
17. Opposition to restoration of patent	200
18. Notification of change in ownership	400
19. Recordal of voluntary licence	200
20. Cancellation/variation of voluntary licence	200
21. Application for compulsory licence for non-working or abuse	200

22.	Application compulsory licence: to interdependence of patents	200
23.	Application for compulsory licence to exploit patent in public interest	200
24.	Application for cancellation/variation of compulsory licence	200
26.	Application offering to surrender patent	200
27.	Objection to surrender of patent	200
28.	Application for invalidation of patent	500
29.	Application for conversion of utility model application into an application for patent	1000
30.	Certificate of utility model	200
31.	Annual fees	

Annual Fees for Patents			
1st anniversary of filing		200	
2nd anniversary of filing		200	
3rd anniversary of filing		200	
4th anniversary of filing		200	
5th anniversary of filing		200	
6th anniversary of filing		200	
7th anniversary of filing		450	
8th anniversary of filing		500	
9th anniversary of filing		550	
10th anniversary of filing		600	
11th anniversary of filing		650	
12th anniversary of filing		700	
13th anniversary of filing		750	
14th anniversary of filing		800	
15th anniversary of filing		850	
16th anniversary of filing		900	
17th anniversary of filing		950	
18th anniversary of filing		1000	
19th anniversary of filing		1000	
20th anniversary of filing		1000	

PART C  
INDUSTRIAL DESIGNS

Description	Fee N\$
1. Application fee	
Fee for single design	200
Fee for additional designs in multiple application	50
2. Claiming priority	100
3. Corrections to application before filing date	50
4. Amendment of application or registration	50
5. Notice of opposition to amendment	100
6. Counter-statement	100
5. Application for the withdrawal of a design registration application	100
6. Fees for changes during examination as to form or substance	100
7. Registration fee	50
8. Publication fee	100

8.	Certificate of registration	100
11.	Renewal fees	100
12.	Late renewal	200
12.	Application for restoration of the design registration	200
13.	Notice of opposition to restoration of the design registration	100
14.	Application for recording of change of ownership	100
15.	Recording of voluntary licence	100
16.	Cancellation/variation of voluntary licence	100
17.	Application offering to surrender of design registration	100
18.	Fee for objection to surrender of design registration	100
19.	Application for invalidation of design registration	500
20.	Notice of invalidation to Registrar	100
21.	Search fee	50

## PART D

## TRADE MARKS, CERTIFICATION AND COLLECTIVE MARKS

Description	Fee N\$
1. Application fee	
Fee for mark in one class	600
Fee for mark in each additional class	480
2. Fee for claiming priority	200
3. Fee for corrections to application before filing date	50
4. Request to amend application for registration	50
5. Application for the withdrawal of a trade mark registration application	200
6. Fees for changes during examination as to form or substance	200
7. Request for grounds of refusal	200
7. Notice of opposition to trade mark registration	200
8. Counter-statement	200
9. Registration and publication fees	500
10. Certificate of registration	100
12. Request for renewal	
For first class	300
For each subsequent class	240
13. Renewal certificate	100
16. Application for restoration of registration	
For first class	600
For each subsequent class	160
17. Notice of opposition to restoration of the trade mark registration	200
14. Application to alter or amend a registered trade mark	
For first class	200
For each subsequent class	160
15. Notice of opposition to amendment	200
16. Request to alter, amend or revise register	200
18. Notification of change of ownership	240
20. Request to change name and address of registered user of a trade mark	50
21. Revision of the class or classes in which a trade mark is registered	200
23. Application for dissolution of association of associated marks	100
24. Recordal of voluntary licence	200
25. Cancellation/variation of voluntary licence	100
26. Application for registration as registered user	200
27. Cancellation/variation of registration as registered user	100
28. Application offering to surrender of trade mark registration	100
29. Objection to surrender of trade mark registration	200

30.	Application for removal of trade mark on grounds of non-use	300
31.	Application to enter disclaimer, endorsement or removal	200
32.	Objection to removal of registration, endorsement or disclaimer	200
33.	Application for invalidation of trade mark registration	200
34.	Notice of invalidation to Registrar	100
35.	Notice of changes of rules or regulations of certification/collective mark	200
36.	Notice of objection to proposal of amendment of classification	200

## ANNEXURE 2 FORMS

### PART A GENERAL FORMS

Form G 1:	Payment form
Form G 2:	Power of attorney
Form G 3:	Request to rectify register
Form G 4:	Request for hearing before Registrar
Form G 5:	Notice of hearing
Form G 6:	Application for publication of change of address for service
Form G 7:	Application for registration as agent
Form G 8:	Certificate of registration as agent
Form G 9:	Application for removal of agent from register

### PART B PATENTS AND UTILITY MODELS

Form P 1:	Application for grant of patent or utility model
Form P 2:	Request to post-date patent or utility model
Form P 3:	Application for amendment application
Form P 4:	Application for conversion of patent/ utility model application
Form P 5:	Patent
Form P 6:	Certificate of grant of patent
Form P 7:	Request for amendment of patent or utility model
Form P 8:	Notice of opposition to amendment/restoration/surrender of patent or utility model
Form P 9:	Counter-statement to amendment /restoration
Form P 10:	Payment of annual fees
Form P 11:	Application for restoration of patent/utility model or application
Form P 12:	Notification of change in ownership
Form P 13:	Recordal of voluntary licence
Form P 14:	Cancellation/variation of voluntary licence
Form P 15:	Application for compulsory licence for non-working or abuse
Form P 16:	Application for compulsory licence: interdependence of patents
Form P 17:	Application for compulsory licence to exploit patent in public interest
Form P 18:	Application for cancellation/variation of a compulsory licence
Form P 19:	Application for endorsement of licence of right
Form P 20:	Application offering to surrender patent/utility model
Form P 21:	Application for invalidation of patent/utility model
Form P 22:	Notice of invalidation to Registrar
Form UM 1:	Certificate of grant of utility model

PART C  
INDUSTRIAL DESIGNS

Form D 1:	Application registration of industrial design
Form D 2:	Statement justifying applicant's right to design registration
Form D 3:	Request for amendment of design application or registration
Form D 4:	Certificate of registration of industrial design
Form D 5:	Notice of opposition to amendment/restoration/surrender of design registration
Form D 6:	Counter-statement to amendment/restoration of design registration
Form D 7:	Payment of annual fees
Form D 8:	Application for restoration of design registration
Form D 9:	Notification of change of ownership
Form D 10:	Recordal of voluntary licence
Form D 11:	Cancellation/variation of voluntary licence
Form D 12:	Application offering to surrender design registration
Form D 13:	Application for invalidation of design registration
Form D 14:	Notice of invalidation to Registrar

PART D  
TRADE MARKS, CERTIFICATION AND COLLECTIVE MARKS

Form TM 1:	Application for registration of mark
Form TM 2:	Withdrawal, restriction or amendment of application
Form TM 3:	Request for grounds for refusal
Form TM 4:	Notice of opposition
Form TM 5:	Counter-statement to registration/amendment/restoration/surrender of mark
Form TM 6:	Certificate of registration of trade mark
Form TM 7:	Renewal notice
Form TM 8:	Request for renewal
Form TM 9:	Renewal certificate
Form TM 10:	Application for restoration of registration
Form TM 11:	Application to alter or amend a registered trade mark
Form TM 12:	Request to alter, amend or revise register
Form TM 13:	Notification of change of ownership
Form TM 14:	Application for dissolution of associated trade marks
Form TM 15:	Recordal of voluntary licence
Form TM 16:	Cancellation/variation of voluntary licence
Form TM 17:	Application for registration as registered user
Form TM 18:	Cancellation/variation of registration as registered user
Form TM 19:	Application offering to surrender trade mark registration
Form TM 20:	Application for removal of trade mark on grounds of non-use
Form TM 21:	Application to enter disclaimer/endorsement/removal on trade mark registration
Form TM 22:	Application for invalidation of trade mark registration
Form TM 23:	Notice of invalidation to Registrar
Form TM 24:	Notification of change of rules or regulations of certification/collective marks
Form TM 25:	Notice of objection to proposal for changes in classification of trade mark



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G 1

PAYMENT FORM  
 (Regulation 11(1))

**Credit/Debit Card** - Use this form to pay by credit card. Post the form to the contact details below.  
**Money Order** - Use this form to pay by money order. Make your money order payable to "Business and Intellectual Property Authority" and post it with this form to the address shown in contact details below.

Money orders are to be in Namibian currency and bankable at a Namibian bank.

**Payment Details**

Please state the reason for your payment and ensure you include all unique identifying numbers to help us match your payment. The Registrar prefers that you quote your application or registration number(s) where possible.

**What service are you paying for?**

- Trade Mark  
 Patent  
 Design

**Reason for Payment**

**Application No(s).**

**Invoice Number(s), if Any**

If you are paying by **money order**, please enter the amount being paid in **Namibian \$**

**Payer Details**

You **MUST** provide your phone or e-mail contact details so that the Office can contact you if there is a problem with your payment.

**Full Name of Industrial Property Right Owner/Applicant**

**Address for Service**

**Telephone No.**

**E-Mail Address**

**Telex No.**

**Credit/Debit Card Details****Credit/Debit Card**

Used:

- Mastercard  
 VISA card

If you are paying by **money order**, please enter  
the amount being paid in **Namibian \$**

**Card No.****Expiry Date on Card****Name on Card****Signature of Cardholder****For Official Use:**

Received on

Receiver of Public Money

Receipt No.

Batch No.



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G2

**POWER OF ATTORNEY**  
**(Regulation 18(1))**

I/We, \_\_\_\_\_

\_\_\_\_\_ hereby declare that- **(Check all that apply)**

1. I/We am/are the applicant(s) mentioned above
2. I/We have been authorised by the applicant(s) to make this declaration and have knowledge of the facts herein stated in the capacity of \_\_\_\_\_ of the applicant(s)
3. The inventor(s)/creator(s) of the above-mentioned invention/design is/are the person(s) named above and the applicant(s) has/have acquired the right to apply by virtue of \_\_\_\_\_
4. To best of my/our knowledge and belief, if a patent/utility model/design/mark is granted or registered on the application, there will be no lawful ground for the revocation of the patent/ utility model/design/mark.
5. This is a convention application and the earliest application from which priority is claimed as set out above is the first application in a convention country in respect of the invention claimed in any of the claims
6. The partners and qualified staff of the firm of \_\_\_\_\_ legal practitioners/ industrial property agents, have been authorised, jointly and severally, with powers of substitution and revocation, to represent the applicant(s) in this application and to be the address for service of the applicant(s) while the application is pending and after a patent/ utility model/design/mark has been granted or registered on the application

Signed at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature

Witnesses

1. \_\_\_\_\_

2. \_\_\_\_\_



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G3

**REQUEST TO RECTIFY REGISTER**  
 (Section 210 and regulation 134(1))

**For Official Use:**Applicant's File Reference: Received on: 

Official Stamp

- Patent/ Utility Model
- Trade Mark
- Industrial Design

In the matter of Application No./Patent No./Industrial Design/Trade Mark Registration No.  
 I/We \_\_\_\_\_ hereby request for the following corrections/rectifications to be  
 made in the Register in terms of Section 210 of the Act

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)



REPUBLIC OF NAMIBIA  
BUSINESS AND INTELLECTUAL PROPERTY  
AUTHORITY (BIPA)  
INDUSTRIAL PROPERTY ACT, 2012

Form No. G4

REQUEST FOR HEARING BEFORE REGISTRAR  
(Regulation 138(1))

**For Official Use:**

Request Received On:

Applicant's File Reference:

Official Date Stamp

- Patent/ Utility Model
- Trade Mark
- Industrial Design

In the matter of Application No.: \_\_\_\_\_

I/We, \_\_\_\_\_  
give notice of my/our request for a hearing in relation to the above application/matter. The grounds for this request are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-Mail Address

Telex No.

- Supporting evidence accompanies this Form.
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G5

**NOTICE OF HEARING**  
**(Regulation 138(2))**

In the matter of Patent/Utility Model/Design/Mark/Application No. \_\_\_\_\_ for the Grant of Patent/Registration of a Utility Model/Design/Mark.

KINDLY TAKE NOTICE THAT a hearing in respect of the abovementioned matter will be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

At \_\_\_\_\_  
Windhoek.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G6

**APPLICATION FOR PUBLICATION OF CHANGE OF ADDRESS FOR SERVICE**  
**(Regulation 140(2))**

Agent's Reference Number

Agent

Old Address for Service

The Applicant hereby applies for the publication of the change of address for service

Details of the New Address for Service:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G7

**APPLICATION FOR REGISTRATION AS AGENT**  
(Section 212(2) and regulation 142(1))

Applicant

Address

The Applicant hereby applies for registration as an Agent in terms of section 212(2) of the Act.

- Certified copies of supporting documents accompany this Form.  
 Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G8

CERTIFICATE OF REGISTRATION AS AGENT  
 (Section 212 and regulation 142(2)(b))

**Agent's Reference No:** \_\_\_\_\_

I hereby certify, in terms of Section 212 of the Act that subject to the terms and conditions specified therein the undermentioned person has been registered as an Industrial Property Agent with effect from:

\_\_\_\_\_

**Particulars of entry in the register of industrial property agent:**

Agent's Registration No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Firm/Company \_\_\_\_\_

Address \_\_\_\_\_

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
 REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. G9

**APPLICATION FOR REMOVAL OF AGENT FROM REGISTER**  
(Section 213(2) and regulation 143(1))

**For Official Use:**

Applicant's File Reference:

Notice Received on:

Official Stamp

**In the matter of Agent's Registration No. \_\_\_\_\_ for removal from the register.**

I/We \_\_\_\_\_ hereby apply in terms of section 213 of the Act for the removal from the register of industrial property of agent \_\_\_\_\_ of Registration No. \_\_\_\_\_ registered on \_\_\_\_\_

The grounds for the application are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-Mail Address

Telex No.

- Supporting affidavit and evidence (if applicable) accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P1

APPLICATION FOR GRANT OF PATENT OR UTILITY MODEL  
 (Section 24(1) and regulations 27(1), 36(1) and 40(2))

**For Official Use:**Application No.: Filing Date: 

(Official Date Stamp)

Select One:  Patent Utility Model**Title of Invention:****Applicant's Personal Details** (in case of two or more applicants, provide details on a separate sheet):Name Address Country  Region  Postcode Nationality Country of Residence or  
Principal Place  
of Business Telephone  E-mail **Agent:** (The following agent has been appointed by the applicant(s) in the power of attorney accompanying this Form.)Name Address

**Inventor:**

The inventor is the Applicant

**If Inventor is not the Applicant** (in case of two or more applicants, provide details on a separate sheet):

Name

Address

Country  Region  Postcode

The statement justifying the Applicant's right must accompany this Form.

**Divisional Application:**

This Application is a Divisional Application

The benefit of the filing date of the initial application is claimed as the subject matter of the present application is contained in the initial application identified below.

Initial Application No.

Initial Application Filing Date

**Disclosures to be Disregarded for Prior Art Purposes:**

Disclosure occurred not more than six months before the filing date or priority date of the present application:

by reason or in consequence of acts of the applicant or his or her or its predecessor in title.

by reason or in consequence of an abuse committed by a third party with regard to the rights of applicant or his or her or its predecessor in title.

Additional information is contained in a statement accompanying this Form.

**Priority Declaration:**

The priority of (an) earlier application(s) is claimed as follows

Country (if the earlier application is a regional or international application, indicate the office with which and the countries for which it was filed):

Filing Date

Application Number

The certified copy of the earlier application will be furnished as prescribed by Regulation 37(6).

The English translation of the earlier application will be furnished as prescribed by Regulation 37(7).

**Supplemental Box:**

The priority of more than one earlier application is claimed; the data are indicated in the supplemental box

A. This application contains the following:

- Request  sheet(s).  
 Description  sheet(s).  
 Claim(s)  sheet(s).  
 Abstract  sheet(s).  
 Drawing(s)  sheet(s).

B. This form is accompanied by the items ticked below:

- Separate signed Declaration and Power of Attorney  
 Statement justifying the Applicant's right to a patent or utility model  
 Statement that certain disclosures be disregarded  
 English translation of priority application(s) on which priority declaration is based  
 Application fee  
 Other document(s) (List below)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P2

REQUEST TO POST-DATE PATENT OR UTILITY MODEL  
 APPLICATION  
 (Section 31 and regulation 39(1))

**For Official Use:**Application No.: 

(Official Date Stamp)

Select One:  Patent Utility Model**Title of Invention:****Application No:****Applicant's Personal Details** (in case of two or more applicants, provide details on a separate sheet):Name Address Country  Region  Postcode Nationality Country of Residence or Principal Place of Business Telephone  E-mail **Agent:** (The following agent has been appointed by the applicant(s) in the power of attorney accompanying this Form.)Name Address

Reasons for request to post-date:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P3

APPLICATION FOR AMENDMENT OR CORRECTION OF PATENT  
 OR UTILITY MODEL APPLICATION  
 (Section 28(1) and regulation 42(1) and (3))

Official Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

Title of Invention

The applicant hereby applies to amend the specification contained in the above application as shown on the attached relevant pages of that specification or to correct errors in the application.

The full reasons for making the amendment are as follows:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P4

**APPLICATION FOR CONVERSION OF PATENT/ UTILITY MODEL APPLICATION**  
 (Sections 33(1) and 90 and regulations 44(1) and 66(1))

**For Official Use:**Application No.: Filing Date: 

(Official Date Stamp)

The applicant hereby applies to convert the patent /utility model application whose particulars are indicated herein to a utility model/patent application in accordance with sections 33(1) and 90 of the Act.

The full reasons for making the conversion are as follows:

Select One:  Patent Utility Model**Title of Invention:**

**Applicant's Personal Details** (in case of two or more applicants, provide details on a separate sheet):

Name Address Country  Region  Postcode Nationality Country of Residence or Principal Place of Business

Telephone  E-mail

**Agent:** (The following agent has been appointed by the applicant(s) in the power of attorney accompanying this Form.)

Name

Address

**Inventor:**

The Inventor is the Applicant

**If Inventor is not the Applicant** (in case of two or more applicants, provide details on a separate sheet):

Name

Address

Country  Region  Postcode

The statement justifying the Applicant's right must accompany this Form.

**Divisional Application:**

This Application is a Divisional Application

The benefit of the filing date of the initial application is claimed as the subject matter of the present application is contained in the initial application identified below.

Initial Application No.

Initial Application Filing Date

**Disclosures to be Disregarded for Prior Art Purposes:**

Disclosure occurred not more than six months before the filing date or priority date of the present application:

by reason or in consequence of acts of the applicant or his or her or its predecessor in title.

by reason or in consequence of an abuse committed by a third party with regard to the rights of applicant or his or her or its predecessor in title.

Additional information is contained in a statement accompanying this Form.

**Priority Declaration:**

The priority of (an) earlier application(s) is claimed as follows

Country (if the earlier application is a regional or international application, indicate the office with which and the countries for which it was filed):

Filing Date

Application Number

The certified copy of the earlier application will be furnished as prescribed by Regulation 37(6).

The English translation of the earlier application will be furnished as prescribed by Regulation 37(7).

**Supplemental Box:**

The priority of more than one earlier application is claimed; the data are indicated in the supplemental box

A. This application contains the following:

Request  sheet(s).

Description  sheet(s).

Claim(s)  sheet(s).

Abstract  sheet(s).

Drawing(s)  sheet(s).

B. This form is accompanied by the items ticked below:

- Separate signed Declaration and Power of Attorney
- Statement justifying the Applicant's right to a patent or utility model
- Statement that certain disclosures be disregarded

- English translation of priority application(s) on which priority declaration is based
- Application fee
- Other document(s) (List below)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P5

**PATENT**

(Section 38(1) and regulations 48(1)(a) and 66(3)(a))

In accordance with Section 38(1) of the Industrial Property Act 2012, it is hereby certified that a patent/utility having:

Application No.:

Patent No.:

Name of patent owner:

Address:

Inventor

Address

Agent:

Address:

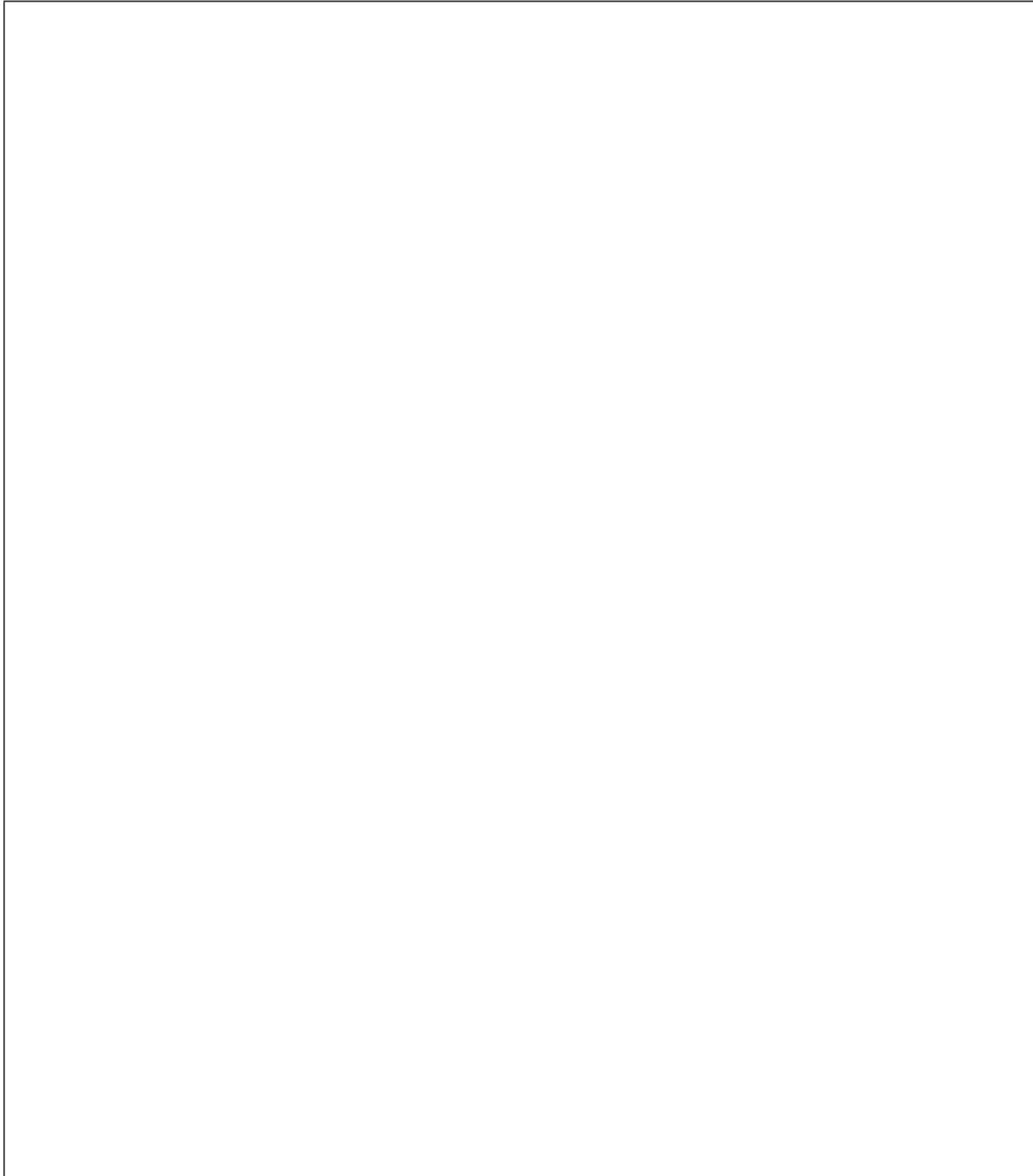
The priority of (an) earlier application(s) is claimed as follows

Country (if the earlier application is a regional or international application, indicate the office with which and the countries for which it was filed):

Effective Date of grant of Patent:

**Title of Invention:****Abstract:**

The most illustrative of the drawings (if any):



	<p><b>REPUBLIC OF NAMIBIA</b>  <b>BUSINESS AND INTELLECTUAL PROPERTY</b>  <b>AUTHORITY (BIPA)</b>  <b>INDUSTRIAL PROPERTY ACT, 2012</b></p>	<p>Form No. P6</p>
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**CERTIFICATE OF GRANT PATENT**  
(Regulations 48(1)(b) and 66(3)(b))

In accordance with regulation 48(1)(b)/66(3)(b) of the Industrial Property Regulations, 2018 it is hereby certified that a patent having:

Application No.:	Patent /utility model No.:
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>

has been granted to:

Name(s)	Address
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>

On \_\_\_\_\_ (date), in respect of an application for that patent having a:

Filing Date	Priority Date
<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>

Effective date of grant of Patent:

Being an invention for (title)

Select One:  Patent  
 Utility Model

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P7

**REQUEST FOR AMENDMENT OF PATENT OR UTILITY MODEL**  
 (Section 40(1) and regulation 49(1))

Registration No.

Filing Date

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

Title of Invention

The applicant hereby applies to amend the patent specification contained in the above application as shown on the attached relevant pages of that specification.

The full reasons for making the amendment are as follows:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



REPUBLIC OF NAMIBIA  
BUSINESS AND INTELLECTUAL PROPERTY  
AUTHORITY (BIPA)  
INDUSTRIAL PROPERTY ACT, 2012

Form No. P8

NOTICE OF OPPOSITION TO AMENDMENT/RESTORATION/SURRENDER  
OF PATENT OR UTILITY MODEL  
(Sections 40(3), 47(2) and 64(2) and regulations 49(3), 52(4) and 61(3))

**For Official Use:**

Applicant's File Reference:

Notice Received on:

Official Stamp

In the matter of Patent No. \_\_\_\_\_ Amendment/Restoration/Surrender  
of a Patent/Utility Model.

I/We, \_\_\_\_\_ give notice  
of my/our intention to oppose the amendment/restoration/surrender of the above identified  
patent published for section \_\_\_\_\_ in the Bulletin of the \_\_\_\_\_ day of  
\_\_\_\_\_ 20 \_\_\_\_\_. No. \_\_\_\_\_, page \_\_\_\_\_.

The grounds for this opposition are as follows:

**Opponent/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Signature (Opponent/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P9

COUNTER-STATEMENT TO AMENDMENT/RESTORATION  
 (Regulations 49(5) and 52(5))

**For Official Use:**

Notice Received on:

Applicant's File Reference:

Official Stamp

**In the matter of Application No. \_\_\_\_\_ for Amendment/Restoration of a patent.**

I/We, \_\_\_\_\_  
 wish to counter the opposition statement in relation to the above identified patent published in the  
 Bulletin of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_. No. \_\_\_\_\_, page \_\_\_\_\_.

Our counter-statement is as follows (attach further information):

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant//Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P10

**PAYMENT OF ANNUAL FEES**  
 (Section 46(1) and regulation 51(1))

Patent/Utility Model/Application No.	Renewal Date	Applicant's or Agent's Reference

Full Name of Patentee/Utility Model Owner/Applicant

Address for Service

I forward herewith the following amounts.

- The amount of N\$ \_\_\_\_\_ in respect of a renewal fee is hereby paid to keep the above patent/utility model/application in force for another period of \_\_\_\_\_ year(s) with effect from the above-mentioned renewal date.
- The amount of N\$ \_\_\_\_\_ is hereby paid and you are requested to grant an extension of \_\_\_\_\_ month(s) for the payment of the renewal fee.
- The amount of N\$ \_\_\_\_\_ in respect of outstanding annual fees after restoration of patent/utility model.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

- Receipt of the above amount(s) is hereby acknowledged and by virtue of such payment the rights of the patentee(s) remain in force.
- The request for extension of time is hereby granted/refused

Receipt No.

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P11

APPLICATION FOR RESTORATION OF PATENT/UTILITY MODEL OR APPLICATION  
 (Section 47(1) and regulation 52(1))

For Official Use:

Official date stamp

In the matter of Patent //Utility Model/Patent Application No. \_\_\_\_\_

I/We, \_\_\_\_\_  
 give notice of my/our intention to restore the above identified Patent/Utility Model/Patent Application.

The grounds for this restoration are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

 Supporting evidence accompanies this Form

 Power of Attorney accompanies this Form.

 Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

---

 Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P12

**NOTIFICATION OF CHANGE IN OWNERSHIP**  
 (Section 48(2) and regulation 53(1)(a))

Patent/Utility Model/Application Number

Date of Filing

**Applicant(s) / Owner(s)**

Name

Address

**Request**

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

- Patent
- Utility Model
- Application

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

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

Name

Address

Address for Service in Namibia

Nationality

Residence or Principal Place of Business (Country)

Telephone No.

E-mail Address .

**Additional Information**

The following items accompany this Form:

- The original or a certified copy of the document evidencing the change of ownership, signed by or on behalf of the contracting parties
- Other documents evidencing the change in ownership Fees
- Other (Specify)

**Signatures**

---

(Date)

Signature (New Applicant/New Owner)

---

(Date)

Signature (Applicant/Owner)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P13

**RECORDAL OF VOLUNTARY LICENCE**  
 (Section 51(2) and regulation 54(1)(b))

**For Official Use**

Received on:

**In the Matter of:**

Patent Application / Registration No.

**Title of Invention:**

**Applicant(s)/Owner(s)/ Licensor**

Name

Address

Telephone No.

E-mail Address

**Request**

The Registrar is hereby requested to record the voluntary licence of the above-identified patent(s) with effect from the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

**Licensee**

Name

Address

Telephone No.

E-mail Address

Address for Service:

Nationality:

Residence or principle place of business:

**Additional Information**

The following items accompany this Form:

- Voluntary Licence Contract
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (New Applicant/New Owner)

\_\_\_\_\_  
Signature (Applicant/Owner)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P14

**CANCELLATION/VARIATION OF VOLUNTARY LICENCE**  
(Section 51(5) and regulation 54(3))

Patent / Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)/ Licensor

Address for Service

The Applicant/Licensor hereby applies for cancellation/variation of the Voluntary Licence recorded between:

Full Name(s) of Licensor

Address for Service

And,

Full Name(s) of Licensee

Address for Service

**Reasons for cancellation/variation****Details of the variation:**

**Additional Information**

The following items accompany this Form:

- Evidence of termination or expiry of the Voluntary License Contract
- Fees
- a statement in duplicate of the facts upon which the applicant relies and evidence in duplicate verifying the statement
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P15

**APPLICATION FOR COMPULSORY LICENCE FOR NON-WORKING OR ABUSE**  
 (Section 55(1) or (4) and regulation 55(1)(a))

**In the Matter of:**

Patent/Utility Model No.

Date of Grant

**Applicant**

Name

Address

Address for Service in Namibia

Nationality

Country of Residence/Place of Business

Telephone No.

E-mail Address

**Title of the invention**

**Owner of the invention**

**Request**

The above applicant hereby requests the Tribunal, in respect of the patent/utility model, identified above, to grant a non-voluntary licence under Section 55(1)/(4) of the Industrial Property Act 2012, in accordance with the terms proposed and upon the grounds set out below.

**Proposed Terms**

Amount and conditions of payment of remuneration:

Conditions of exploitation of invention:

--

Others:

--

**Facts Justifying Grant of Licence**

--

**Additional Information**

The following items accompany this Form:

- Evidence that the owner of the patent or utility model has received a request from the applicant to obtain a licence but that the applicant has been unable to obtain such a licence on reasonable terms and within a reasonable time.
- Plan according to which the applicant intends to work the invention, including evidence that applicant has the ability to do so in Namibia.
- Other (Specify) 

--

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P16

**APPLICATION FOR COMPULSORY LICENCE: INTERDEPENDENCE OF PATENTS**  
 (Section 56(1) and regulation 56(1)(a))

**In the Matter of:**

Patent/Utility Model No.

Date of Grant

**Applicant**

Name

Address

Address for Service

Nationality

Country of Residence/Place of Business

Telephone No.

E-mail Address

**Title of the invention**

**Owner of the invention**

**Request**

The above applicant hereby requests the Tribunal, in respect of the patent/utility model, identified above, to grant a compulsory licence under Section 56(1)(2) of the Industrial Property Act 2012, in accordance with the terms proposed and upon the grounds set out below.

**Proposed Terms**

Amount and conditions of payment of remuneration:

Conditions of exploitation of invention:

Others:

**Facts Justifying Grant of Licence**

**Additional Information**

The following items accompany this Form:

- Evidence that the owner of the patent or utility model has received a request from the applicant to obtain a licence but that the applicant has been unable to obtain such a licence on reasonable terms and within a reasonable time.
- Plan according to which the applicant intends to work the invention, including evidence that applicant has the ability to do so in Namibia.
- Other (Specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P17

**APPLICATION FOR COMPULSORY LICENCE TO EXPLOIT PATENT IN PUBLIC INTEREST**  
 (Section 57(3) and regulation 57(1)(a))

In the Matter of:

Patent/Utility Model No.

Date of Grant

**Applicant**

Name

Address

Address for Service

Nationality

Country of Residence/Place of Business

Telephone No.

E-mail Address

**Title of the invention**

**Owner of the invention**

**Request**

The above applicant hereby requests the BIPA Board, in respect of the patent/utility model, identified above, to grant a non-voluntary licence under Section 57 of the Industrial Property Act 2012, in accordance with the terms proposed and upon the grounds set out below.

**Proposed Terms**

Amount and conditions of payment of remuneration:

Conditions of exploitation of invention:

Others:

**Facts Justifying Grant of Licence**

**Additional Information**

The following items accompany this Form:

- Evidence that the owner of the patent or utility model has received a request from the applicant to obtain a licence but that the applicant has been unable to obtain such a licence on reasonable terms and within a reasonable time.
- Plan according to which the applicant intends to work the invention, including evidence that applicant has the ability to do so in Namibia.
- Other (Specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P18

**APPLICATION FOR CANCELLATION/VARIATION OF COMPULSORY LICENCE**  
 (Sections 57(10) and (11) and 61(3) and regulations 57(10) and 58(1))

Patent / Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)/ Licensor

Address for Service

The Applicant/Licensor hereby applies for cancellation/termination/variation of the Compulsory License recorded between:

Full Name(s) of Licensor

Address for Service

And,

Full Name(s) of Licensee

Address for Service

**Reasons for cancellation/formation/variation**

**Details of the variation:**

**Additional Information**

The following items accompany this Form:

- Evidence of termination or expiry of the Voluntary License Contract
- Fees
- a statement in duplicate of the facts upon which the applicant relies and evidence in duplicate verifying the statement
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P19

APPLICATION FOR ENDORSEMENT OF LICENCE OF RIGHT  
 (Section 62(1) and regulation 59(1))

**For Official Use**

Received on:

**In the Matter of:**

Patent No.

**Applicant(s)/Owner(s)**

Name

Address

Telephone No.

E-mail Address .

The owner of the patent indicated above hereby applies for the endorsement on the patent of the words "Licences of right" pursuant to section 62(1) of the Industrial Property Act, 2012

Address for Service:

**Additional Information**

The following items accompany this Form:

- Statement that the applicant is not precluded to grant licences under the patent
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

---

 Signature (Owner/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P20

**APPLICATION OFFERING TO SURRENDER PATENT/UTILITY MODEL**  
 (Section 64(1) and regulation 61(1))

Patent/Utility Model No.

Filing Date

Full Name(s) of Patentee(s) / Utility Model Owner(s)

Full Address(es) of Patentee(s) / Utility Model Owner(s)

Title of Invention

I/We \_\_\_\_\_

hereby Declare that --

1. I/We am/are the Patentee(s)/Utility Model Owner(s) mentioned above;
2. I/We hereby offer to surrender the above-mentioned patent/utility model;
3. No action for infringement or proceedings for revocation of the patent/utility model are pending; and
4. My/our reasons for making this offer are as follows: \_\_\_\_\_  
 \_\_\_\_\_.

Address for Service

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

 \_\_\_\_\_  
 Signature (Owner/Agent)

 \_\_\_\_\_  
**For Official Use:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P21

**APPLICATION FOR INVALIDATION OF PATENT/UTILITY MODEL**  
**(Section 65(1) and regulation 62(1))**

Patent/Utility Model No.

Reference No.

Full Name(s) of Applicant(s)

Nature of Proceedings

Grounds for Invalidation

Documents Filed in Support

Address for Service

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. P22

**NOTICE OF INVALIDATION TO REGISTRAR**  
 (Section 65(2) and regulation 62(3))

Full Name(s) of Patent Owner:

Full Name(s) of Applicant(s):

Relevant Patent/Utility Model No.

Nature of Proceedings

Section

Regulation

Relief Sought

Grounds for Invalidation

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)

**For Official Use:**

Official Date Stamp

	<p><b>REPUBLIC OF NAMIBIA</b>  <b>BUSINESS AND INTELLECTUAL PROPERTY</b>  <b>AUTHORITY (BIPA)</b>  <b>INDUSTRIAL PROPERTY ACT, 2012</b></p>	<p>Form No. UM1</p>
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**CERTIFICATE OF GRANT OF UTILITY MODEL**  
 (Section 87(3) and regulation 65(2))

In accordance with Section 87(3) of the Industrial Property Act 2012, it is hereby certified that a utility model having:

Application No.:

Utility Model No.:

has been granted to:

Name(s)

Address

On \_\_\_\_\_(date), in respect of an application for that a utility model having a:

Filing Date

Priority Date

Effective date of grant of Utility Model:

Being an invention for (title)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D1

**APPLICATION FOR REGISTRATION OF INDUSTRIAL DESIGN**  
 (Section 100(1) and regulations 70(1) and 76(2))

**For Official Use:**Application No.: Filing Date: 

(Official Date Stamp)

**The Applicant(s) request(s) the registration of a design in respect of the following particulars**  
 (in case of two or more applicants, provide details on a separate sheet):

Name

Address (Street)

Postal Address

Nationality

Country of Residence/Principal Place of  
Business

Telephone No.

E-mail Address

**Agent**

The following Agent has been appointed by the applicant(s) in the Power of Attorney accompanying this:

- Form  
 to be filed within one month from filing of this Form

Name

Address

Telephone No.

E-mail Address

**Inventor:**

The Inventor is the Applicant

**If Inventor is not the Applicant** (in case of two or more applicants, provide details on a separate sheet):Name Address Country  Region  Postcode 

The statement justifying the Applicant's right must accompany this Form.

**Classification and Indication of Products**

Registration is requested in respect of the following classification and indication of products:

**Additional Information**

Specify any additional information accompanying this Form:

This application contains the following:

Request Drawings, Photographs or graphic representation of the article or specimen Statement indicating the type of products  Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D2

STATEMENT JUSTIFYING APPLICANT'S RIGHT TO DESIGN REGISTRATION  
 (Section 96 and regulation 71(1)(b))

**For Official Use:**Application No.: Filing Date: 

(Official Date Stamp)

**The Applicant(s) request(s) the registration of a design in respect of the following particulars**  
 (in case of two or more applicants, provide details on a separate sheet):

Name

Address (Street)

Postal Address

Statement justifying the right

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D3

REQUEST FOR AMENDMENT OF DESIGN APPLICATION OR REGISTRATION  
 (Section 106(1) and regulation 78(1) and (2) and 83(1))

**For Official Use**

Received on:

**In the Matter of:**

Application No./Registered Design No.

Filing Date:

Design No.

Registration Date

The following amendment/correction is requested:

**Applicant(s)/Owner(s)**

Name

Address

Telephone No.

E-mail Address



Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

---

 Signature (Applicant/Owner)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D4

**CERTIFICATE OF REGISTRATION OF INDUSTRIAL DESIGN**  
(Sections 105(1) and 128(4)(b) and regulation 82(1) and 91(3))

In accordance with Section 105(1)/128(4)(b) of the Industrial Property Act 2012, the following Design has been registered in the Register:

**Representation of the Industrial Design:**

Application No.

Registration No.

**Registered Owner**

Name

Address

Agent (If any)

Name

Address

Filing Date

Priority Date

Indication of products

--

Publication date & No:

--

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
REGISTRAR

\_\_\_\_\_  
Registration may be renewed at one yearly intervals up to a period of 15 years from the initial filing date. This certificate is not for use in legal proceedings or for obtaining registration abroad.



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D5

**NOTICE OF OPPOSITION TO AMENDMENT/RESTORATION/SURRENDER  
 OF DESIGN REGISTRATION**

Sections 106(3), 112(2) and 120(2) and regulations 83(3), 86(4) and 89(3))

**For Official Use:**Applicant's File Reference: Notice Received on: 

(Official Date Stamp)

In the matter of Industrial Design No. \_\_\_\_\_ Amendment/Restoration/Surrender  
 of design registration.

I/We \_\_\_\_\_ give notice of my/our intention to oppose the amendment/restoration/  
 surrender of the above identified industrial design registration published under section 106(3), 112(2)/  
 120(2) of the Act and published in the Bulletin of the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.  
 No. \_\_\_\_\_, page \_\_\_\_\_.

The grounds for this opposition are as follows:

**Opponent/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
 Signature (Opponent/Agent)



REPUBLIC OF NAMIBIA  
BUSINESS AND INTELLECTUAL PROPERTY  
AUTHORITY (BIPA)  
INDUSTRIAL PROPERTY ACT, 2012

Form No. D6

COUNTER-STATEMENT TO AMENDMENT/RESTORATION OF DESIGN REGISTRATION  
(Sections 106, 112 and regulations 83(5) and 86(5))

**For Official Use:**

Notice sent on:

Application Reference No.:

(Official Date Stamp)

**In the matter of Application No. \_\_\_\_\_ for Amendment/Restoration of a design.**

I/We, \_\_\_\_\_ wish to counter the opposition statement in relation to the above identified design published for Section \_\_\_\_\_ in the Bulletin of the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_. No. \_\_\_\_\_, page \_\_\_\_\_.

Our counter-statement is as follows (attach further information):

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D7

**PAYMENT OF ANNUAL FEES**  
 (Section 111(1) and regulation 85(1))

Application No.:

Filing date:

Renewal date.

Full Name of Patentee/Design Registration/Applicant

Address for Service

I forward herewith the following amounts.

- The amount of N\$ \_\_\_\_\_ in respect of a renewal fee is hereby paid to keep the above patent/utility model/application in force for another period of \_\_\_\_\_ year(s) with effect from the above-mentioned renewal date.
- The amount of N\$ \_\_\_\_\_ is hereby paid and you are requested to grant an extension of \_\_\_\_\_ month(s) for the payment of the renewal fee.
- The amount of N\$ \_\_\_\_\_ in respect of outstanding annual fees after restoration of design registration.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

---

 Signature (Applicant/Agent)
 

---

**For Official Use:**

- Receipt of the above amount(s) is hereby acknowledged and by virtue of such payment the rights of the design registration owner(s) remain in force.
- The request for extension of time is hereby granted/refused

Receipt No.

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. 8

APPLICATION FOR RESTORATION OF DESIGN REGISTRATION  
 (Section 112(1) and regulation 86(1))

For Official Use:

Official date stamp

In the matter of Industrial Design No. \_\_\_\_\_

I/We, \_\_\_\_\_  
 give notice of my/our intention to restore the above identified Industrial Design.

The grounds for this restoration are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

 Supporting evidence accompanies this Form

 Power of Attorney accompanies this Form.

 Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

---

 Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D9

**NOTIFICATION OF CHANGE IN OWNERSHIP**  
 (Section 113(2) and regulation 87(1)(a))

**For Official Use**

Received on:

**In the Matter of:**

Application No./Registered Design No.

Filing Date:

Design No.

Registration Date

**Applicant(s)/Owner(s)**

Name

Address

Telephone No.

E-mail Address

**Request**

The Registrar is hereby requested to record the change in ownership of the above identified design application/registration.

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

Name

Address

Telephone No.

E-mail Address

Address for Service in Namibia:

Nationality:

Residence or principle place of business:

Telephone No.

E-mail Address

**Additional Information**

The following items accompany this Form:

- The original or a certified copy of the document evidencing the change of ownership, signed by or on behalf of the contracting parties
- Other documents evidencing the change in ownership (specify) Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (New Applicant/New Owner)

\_\_\_\_\_  
Signature (Applicant/Owner)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D10

**RECORDAL OF VOLUNTARY LICENCE**  
(Section 116(2) and regulation 88(1)(b))

**For Official Use**

Received on:

**In the Matter of:**

Design Application / Registration No.

**Applicant(s)/Owner(s)/ Licensor**

Name

Address

Telephone No.

E-mail Address

**Request**

The Registrar is hereby requested to record the voluntary licence of the above-identified industrial design (s) with effect from the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

**Licensee**

Name

Address

Telephone No.

E-mail Address

Address for Service:

Nationality:

Residence or principle place of business:

**Additional Information**

The following items accompany this Form:

- Voluntary Licence Contract
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (New Applicant/New Owner)\_\_\_\_\_  
Signature (Applicant/Owner)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D11

**CANCELLATION/VARIATION OF VOLUNTARY LICENSE**  
(Section 116(4) and regulation 88(3))

Registration / Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)/ Licensor

Address for Service

The Applicant/Licensor hereby applies for cancellation/variation of the Voluntary License recorded between:

Full Name(s) of Licensor

Address for Service

And,

Full Name(s) of Licensee

Address for Service

**Reasons for cancellation/variation****Details of variation**

**Additional Information**

The following items accompany this Form:

- Evidence of termination or expiry of the Voluntary Licence Contract
- Fees
- a statement in duplicate of the facts upon which the applicant relies and evidence in duplicate verifying the statement
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D12

APPLICATION OFFERING TO SURRENDER DESIGN REGISTRATION  
 (Section 120(1) and regulation 89(1))

Registration No.

Filing Date

Full Name(s) of Registered Owner(s)

Full Address(es) of Registered Owner(s)

I/We \_\_\_\_\_  
 \_\_\_\_\_

hereby declare that -

1. I/We am/are the registered owner(s) mentioned above;
2. I/We hereby offer to surrender the above-mentioned registration of design;
3. No action for infringement or proceedings for revocation of the registration of design; and
4. My/our reasons for making this offer are as follows: \_\_\_\_\_  
 \_\_\_\_\_

Address for Service

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Owner/Agent)

**For Official Use:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D13

**APPLICATION FOR INVALIDATION OF DESIGN REGISTRATION**  
**(Section 121(1) and regulation 90(1))**

Registration No.:

Reference No.:

Full Name(s) of Applicant(s)

Nature of Proceedings

Grounds for Invalidation

Documents Filed in Support

Address for Service

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. D14

**NOTICE OF INVALIDATION TO REGISTRAR**  
 (Section 121(2) and regulation 90(3))

Full Name(s) of Registered Owner:

Full Name(s) of Requester(s)

Registration No.

Nature of Proceedings

Section

Regulation

Relief Sought

Grounds for Invalidation

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)

**For Official Use:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM1

**APPLICATION FOR REGISTRATION OF MARK**  
(Section 140(1) and regulations 96(1), 98(1), 99 and 101(2))

**For Official Use**

Received on:

Filing Date:

(Official Date Stamp)

**The Applicant(s) request(s) the registration of a mark in respect of the following particulars:**  
(in case of two or more applicants, provide details on a separate sheet)

Name

Address (Street Address)

Postal Address

Nationality:

Residence or principle place of business:

Telephone No.

E-mail Address

**Agent**

The following Agent has been appointed by the applicant(s) in the Power of Attorney Form

accompanying this Form

to be filed within one month from filing of this Form

Name

Address

Telephone No.

E-mail Address

**Certification / Collective Mark**

The rules / regulations governing the use of the collective mark are

attached this application for registration concerns a collective mark

**Reproduction of Mark****Attachment Checklist**

- Three additional reproductions on a separate sheet are affixed
- Transliteration accompanies application
- Translation accompanies application

**Fees**

Fees accompany application

**Specification of Goods/Services and Classes**

Registration is requested in respect of the following goods and/or services, listed under the applicable classes of the International Classification- Indicate Class followed by description:

**Priority Declaration**

Specify information on Priority Claim

Country (if the earlier application is a regional or international application, indicate the office with which and the countries for which it was filed):

**Additional Information (Endorsements)**

Specify any additional information accompanying this Form:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM2

**WITHDRAWAL, RESTRICTION OR AMENDMENT OF APPLICATION**  
 (Section 144 and regulations 103(1) and (3) and 104(1))

Trade Mark Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

The Applicant hereby applies for:

- Withdrawal  
 Restrictions  
 Amendments

Details of withdrawal (declaration)/ restrictions/ amendments:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

 \_\_\_\_\_  
 Signature (Applicant/Agent)
**For Official Use:****Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM3

**REQUEST FOR GROUNDS FOR REFUSAL**  
**(Section 146(2) and regulation 106(2))**

Trade Mark Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

The Applicant hereby requests the statement of grounds of your decision, dated the ..... of ..... 20.....; in respect of the abovementioned trade mark application and the data relied upon in arriving at the decision.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM4

**NOTICE OF OPPOSITION**

(Sections 147(1), 159(2), 160(3), 175 and 178(3) and regulations  
 107(1), 112(4), 113(3), 119(3) and 120(4))

**For Official Use**Applicant's File Reference: Notice Received on: 

(Official Date Stamp)

In the matter of Application No. \_\_\_\_\_ for Registration / Restoration/Amendment/  
 Surrender of a Mark.

I/We, \_\_\_\_\_ give  
 notice of my/our intention to oppose the registration / restoration / amendment / surrender of the  
 above identified mark published for class(es) \_\_\_\_\_ in the Bulletin of  
 the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_. No. \_\_\_\_\_, page \_\_\_\_\_.

The grounds for this opposition are as follows:

**Opponent/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
 Signature (Opponent/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM5

**COUNTER-STATEMENT TO REGISTRATION/RESTORATION/AMENDMENT**  
**/SURRENDER OF MARK**  
 (Section 147(3), 159(3) and 160(4) and regulations 107(2), 112(5), 113(5) and 119(3))

**For Official Use**

Notice received on:

Application Reference No.:

(Official Date Stamp)

In the matter of Application No. \_\_\_\_\_ for Registration / Restoration/Amendment/  
 Surrender of a Mark.

I/We, \_\_\_\_\_  
 give wish to counter the opposition statement in relation to the above identified mark published  
 for class(es) \_\_\_\_\_ in the Bulletin of the \_\_\_\_\_ day of  
 \_\_\_\_\_ 20 \_\_\_\_\_. No. \_\_\_\_\_, page \_\_\_\_\_.

Our counter-statement is as follows (attach further information):

**Applicant/Agent**


Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form  
 Power of Attorney accompanies this Form.  
 Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM6

**CERTIFICATE OF REGISTRATION OF TRADE MARK**  
 (Section 148(1) and regulations 108(1)(a) and 124(3))

I hereby certify, in terms of Section 148(1) of the Act that subject to the terms and conditions specified therein the undermentioned trade mark has been registered with effect from:

\_\_\_\_\_

The registration is for a period of 10 years from:

\_\_\_\_\_

**Particulars of entry in the register of trade marks:**

Trade Mark Registration No. \_\_\_\_\_ in Class \_\_\_\_\_ (Number):  
 \_\_\_\_\_ (description of goods/services) in the name of \_\_\_\_\_  
 \_\_\_\_\_ ( Name of Applicant) \_\_\_\_\_ (address of  
 Applicant) \_\_\_\_\_ (Address for Service).

Filed: \_\_\_\_\_ (Filing Date)

**Reproduction of the Mark:**

Association (if any): \_\_\_\_\_

Endorsements (if any) \_\_\_\_\_

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM7

RENEWAL NOTICE  
 (Section 158(3) and regulation 111(1))

Reference Number:

Registration No:

Filing Date:

class(es)

Registered in the name of:

You are hereby notified, under Section 158(3) of the Industrial Property Act, 2012, that the abovementioned trade mark will expire on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
 the renewal must be requested on or before \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_  
 accompanied by the appropriate renewal fee.

If as a result of changes in the International Classification there have been changes in a class or classes of goods or services, the owner of the registered trademark must, when submitting the renewal application, re-classify the goods and services in respect of which the mark is registered in accordance to the latest edition of the International Classification.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
 REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM8

REQUEST FOR RENEWAL  
 (Section 158(1) and regulation 111(2))

**For Official Use:****Request received on:**


(Official Date Stamp)

Trade Mark Registration No.

Filing Date

Class(es)

Name of Proprietor:

We would like to request that the abovementioned Trade Mark be renewed for a further period of 10 years in the following class(es):

**Owner/Agent**

Name

Address

Telephone No.

E-mail Address

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Owner/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM9

**RENEWAL CERTIFICATE**  
 (Section 158(1) and regulation 111(4))

I hereby certify, in terms of Section 158 of the Industrial Property Act, 2012 that subject to the terms and conditions specified therein the undermentioned trade mark has been renewed for a period of 10 years with effect from

\_\_\_\_\_

to

\_\_\_\_\_

**Particulars of entry in the register of trade marks:**

Trade Mark Registration No. \_\_\_\_\_ in Class \_\_\_\_\_ (Number):  
 \_\_\_\_\_ (description of goods/services) in the name of \_\_\_\_\_  
 \_\_\_\_\_ ( Name of Applicant) \_\_\_\_\_ (address of  
 Applicant) \_\_\_\_\_ (Address for Service).

Filed: \_\_\_\_\_ (Filing Date)

**Reproduction of the Mark:**

Association (if any): \_\_\_\_\_

Endorsements (if any) \_\_\_\_\_

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 REGISTRAR



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM10

APPLICATION FOR RESTORATION OF REGISTRATION  
(section 159(1) and regulation 112(1))

For Official Use:

(Official Date Stamp)

In the matter of Trade Mark No. \_\_\_\_\_

I/We, \_\_\_\_\_  
give notice of my/our intention to restore the above-identified mark.

The grounds for this restoration are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM11

**APPLICATION TO ALTER OR AMEND A REGISTERED MARK**  
 (Section 160(1) and regulation 113(1))

Trade Mark Registration No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

The Applicant hereby applies for:

- Alteration  
 Amendment

Details of Alteration / Amendment:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM12

**REQUEST TO ALTER, AMEND OR REVISE REGISTER**  
 (Section 160(5), (6) and (7) and regulation 113(11), (13) and (14))

Trade Mark Registration No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

The Applicant hereby applies for:

- Alteration
- Amendment
- Revision of class

Details of Alteration / Amendment/Revision of class:

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)

**For Official Use:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM13

**NOTIFICATION OF CHANGE IN OWNERSHIP**  
 (Section 161(2)(b) and regulation 114(1)(a))

**For Official Use**

Received on:

(Official Date Stamp)

**In the Matter of:**

Trade Mark Application / Registration No.

**Applicant(s)/Owner(s)**

Name

Address

Telephone No.

E-mail Address

**Request**

The Registrar is hereby requested to record the change in ownership of the above-identified mark(s) with / without goodwill in business, with effect from the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_

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

Name

Address

Telephone No.

E-mail Address

Address for Service:

Nationality:

Residence or principle place of business:

**Additional Information**

The following items accompany this Form:

- The original or a certified copy of the document evidencing the change of ownership, signed by or on behalf of the contracting parties
- Other documents evidencing the change in ownership (specify)
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (New Applicant/New Owner)\_\_\_\_\_  
Signature (Applicant/Owner)

\_\_\_\_\_



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM14

APPLICATION FOR DISSOLUTION OF ASSOCIATED TRADE MARKS  
 (Section 162(5) and regulation 115(1))

**For Official Use:**

**Official Date Stamp**

Trade Marks Registration Nos: \_\_\_\_\_

Classes: \_\_\_\_\_

Application is hereby made that the association of the above-numbered trade marks registered in the name of

\_\_\_\_\_ be dissolved  
 and the register be amended accordingly with effect \_\_\_\_\_

Registration is in respect of the following goods and/or services, listed under the applicable classes of the International Classification

I/We, \_\_\_\_\_ give notice  
 of my/our request that the association between the above-mentioned marks be dissolved from (date)  
 \_\_\_\_\_ in respect of the goods or services listed under the applicable classes of the  
 International Classification. The grounds for this request are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

 Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

---

Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM15

**RECORDAL OF VOLUNTARY LICENCE**  
 (Section 165(2) and regulation 116(1)(b))

**For Official Use**

Received on:

(Official Date Stamp)

In the Matter of:

Trademark Application / Registration No.

**Applicant(s)/Owner(s)/ Licensor**

Name

Address

Telephone No.

E-mail Address

**Request**

The Registrar is hereby requested to record the voluntary licence of the above-identified mark(s) with effect from the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**Licensee**

Name

Address

Telephone No.

E-mail Address

Address for Service:

Nationality:

Residence or principle place of business:

**Additional Information**

The following items accompany this Form:

- Voluntary Licence Contract
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (New Applicant/New Owner)\_\_\_\_\_  
Signature (Applicant/Owner)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM16

**CANCELLATION/VARIATION OF VOLUNTARY LICENCE**  
 (Section 165(6) and regulation 116(3))

Trade Mark Application No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)/ Licensor

Address for Service

The Applicant/Licensor hereby applies for cancellation/variation of the Voluntary Licence recorded between:

Full Name(s) of Licensor

Address for Service

and

Full Name(s) of Licensee

Address for Service

**Details of the variation:****Additional Information**

The following items accompany this Form:

- Evidence of termination or expiry of the Voluntary Licence Contract
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

---

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM17

APPLICATION FOR REGISTRATION AS REGISTERED USER  
 (Section 171(1) and regulation 117(1))

**For Official Use**

Received on:

**In the Matter of:**

Trade Mark Applicant/ Registration No.

**Applicant(s)/Owner(s)**

Name

Address

Telephone No.

E-mail Address

**Request**

Application is hereby made by the above applicant who is the proprietor of Trade Mark(s) No(s):

\_\_\_\_\_

 registered in classes \_\_\_\_\_ in respect of (goods/services)

that \_\_\_\_\_ (Registered User) of (address) \_\_\_\_\_ who hereby joins in the application, may be registered as the Registered User of the abovementioned trade mark(s) in respect of (good/services) \_\_\_\_\_ subject to the following conditions or restrictions:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

The proposed permitted use is to end on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, / Proposed permitted use is without limit of period.

The Proposed Registered User will/will not be the sole user.

Address for Service:

**Additional Information**

The following items accompany this Form:

- Evidence that the proposed user is authorized to use the trade mark by the registered owner of the trade mark
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM18

**CANCELLATION/VARIATION OF REGISTRATION AS REGISTERED USER**  
(Section 173(1)(a) and regulation 118(1))

Trade Mark Registration No.

Applicant's or Agent's Reference

Full Name(s) of Applicant(s)

Address for Service

The Applicant hereby applies for cancellation/variation of the registration as a Registered User between:

Full Name(s) of Registered Owner:

Address for Service

and

Full Name(s) of Registered User:

Address for Service

In respect of (class & goods/services)

---

Details of variation:

**Additional Information**

The following items accompany this Form:

- Evidence of termination or expiry of the Voluntary Licence Contract
- Fees
- Other (specify)

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

**Application Reference No.:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM19

**APPLICATION OFFERING TO SURRENDER TRADE MARK REGISTRATION**  
 (Section 175 and regulation 119(1))

**For Official Use:**

---

Trade Mark No. \_\_\_\_\_ was registered in the Register in the name of

---

Registration is in respect of the following goods and/or services, listed under the applicable classes of the International Classification:

I/We request to surrender the registration of the mark from (date) \_\_\_\_\_ in whole/ part in respect of the goods or services listed under the applicable classes of the International Classification:

**Owner/Agent**

Name

Address

Telephone No.

E-mail Address

Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Owner/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM20

**APPLICATION FOR REMOVAL OF TRADE MARK ON GROUNDS OF NON-USE**  
(Section 176(1) and regulation 120(1))

**For Official Use:**

Application Reference No.:

Notice Received on:

(Official Date Stamp)

In the matter of Application No. \_\_\_\_\_ for Removal of Trade Mark on grounds of non-use

I/We, \_\_\_\_\_ hereby apply in terms of section 176 of the Industrial Property Act, 2012 for the removal from the register of trade marks number \_\_\_\_\_ registered on \_\_\_\_\_ in respect of \_\_\_\_\_ for removal of trade mark.

The grounds for the application are as follows:

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

- Supporting affidavit and evidence (if applicable) accompanies this Form
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM21

APPLICATION TO ENTER DISCLAIMER/ENDORSEMENT/REMOVAL ON  
 TRADE MARK REGISTRATION  
 (Section 177 and regulation 120(2))

**For Official Use:**

I/We \_\_\_\_\_ of \_\_\_\_\_ hereby  
 request that you will enter in the register in connection with Trade Mark No. \_\_\_\_\_ in  
 class \_\_\_\_\_ the following disclaimer/endorsement/ removal as indicated below:

**Grounds for application**

**Applicant/Agent**

Name

Address

Telephone No.

E-mail Address

Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM22

**APPLICATION FOR INVALIDATION OF TRADE MARK REGISTRATION**  
(Section 179(1) and regulation 121(1))

Trade Mark Registration No.

Applicant Reference No.

Full Name(s) of Applicant(s)

Nature of Proceedings

Grounds for Invalidation

Documents Filed in Support

Address for Service

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)



**REPUBLIC OF NAMIBIA**  
**INDUSTRIAL PROPERTY TRIBUNAL**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM23

**NOTICE OF INVALIDATION TO REGISTRAR**  
(Section 179 and regulation 121(3))

Full Name(s) of Trade Mark Owner:

Full Name(s) of Applicant(s)

Relevant Trade Mark No.

Nature of Proceedings

Section

Regulation

Relief Sought

Grounds for Invalidation

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
Signature (Applicant/Agent)

**For Official Use:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM24

NOTIFICATION OF CHANGE OF RULES OR REGULATIONS FOR CERTIFICATION/  
 COLLECTIVE MARKS  
 (Section 188(4) and regulations 123(4) and 124(3))

I/We (Proprietor):

Owner of the Certificate/collective Trade Mark No.:

Hereby notify you of the changes in the rules/ regulations for the abovementioned certification/ collective mark as per document attached hereto.

**Additional Information**

The following items accompany this Form:

- original rules and regulations
- revised rules and regulations
- Fees

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Owner/Agent)

**For Official Use:**

Official Date Stamp



**REPUBLIC OF NAMIBIA**  
**BUSINESS AND INTELLECTUAL PROPERTY**  
**AUTHORITY (BIPA)**  
**INDUSTRIAL PROPERTY ACT, 2012**

Form No. TM25

NOTICE OF OBJECTION TO PROPOSAL FOR CHANGES IN  
 CLASSIFICATION OF TRADE MARK  
 (Regulation 125(3)(a))

**For Official Use:**Application Reference No.: Notice Received on: 

(Official Date Stamp)

In the matter of Application No. \_\_\_\_\_ for the proposal to amend classification of the mark.

I/We, \_\_\_\_\_ of

hereby object to the proposal to amend the classification of the above-identified mark.

The grounds of objection are provided hereunder:

Telephone No.

E-mail Address

- Supporting evidence accompanies this Form (if any)
- Power of Attorney accompanies this Form.
- Fees accompany this Form.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_  
 Signature (Opponent/Agent)

**For Official Use:**

\_\_\_\_\_  
 Official Date Stamp