

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY,
PART II,
SECTION 3, SUB-SECTION (i)]

MINISTRY OF COMMERCE AND INDUSTRY
(Department of Industrial Policy and Promotion)

NOTIFICATION

New Delhi, the 30th December, 2014

G.S.R. _____(E).___ Whereas certain draft rules, namely the Design (Amendment) Rules 2013, were published as required under sub-section (3) of section 47 of the Designs Act, 2000 (16 of 2000) vide notification of the Government of India in the Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) number G.S.R. 720 (E), dated the 31st October, 2013, in the Gazette of India, Extraordinary, Part II, Section 3, sub-section(i), dated 31st October, 2013, for inviting objections and suggestions from all persons likely to be affected thereby before the expiry of a period of forty-five days from the date on which copies of the Gazette containing the notification were made available to the public;

And whereas, the copies of the Gazette containing the said notification were made available to the public on the 31st October, 2013;

And whereas, the objections and the suggestions received from the public on the said draft rules have been considered by the Central Government;

Now, therefore, in exercise of the powers conferred by section 47 of the Designs Act, 2000 (16 of 2000), the Central Government hereby makes the following rules further to amend the Designs Rules, 2001, namely:-

1. (1) These rules may be called the Designs (Amendment) Rules, 2014.
- (2) They shall come into force on the date of their final publication in the Official Gazette.

2. In rule 2 of the Designs Rules, 2001 (hereinafter referred to as the principal rules),-

(i) after clause (c), the following clause shall be inserted, namely:-

‘(ca) “person other than a natural person”, shall include a “small entity”;;’;

(ii) after clause (e), the following clause shall be inserted, namely:-

‘(ea) “small entity” means,-

(i) in case of an enterprise engaged in the manufacture or production of goods, an enterprise where the investment in plant and machinery does not exceed the limit specified for a medium enterprise under clause (a) of sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006); and

(ii) in case of an enterprise engaged in providing or rendering of services, an enterprise where the investment in equipment is not more than the limit specified for medium enterprises under clause (b) of sub-section (1) of section 7 of the Micro, Small and Medium Enterprises Development Act, 2006.

Explanation 1. – For the purpose of this clause, “enterprise” means an industrial undertaking or a business concern or any other establishment, by whatever name called, engaged in the manufacture or production of goods, in any manner, pertaining to any industry specified in the First Schedule to the Industries (Development and Regulation) Act, 1951 (65 of 1951) or engaged in providing or rendering of any service or services in such an industry.

Explanation 2. – In calculating the investment in plant and machinery, the cost of pollution control, research and development, industrial safety devices and such other things as may be specified by notification under the Micro, Small and Medium Enterprises Development Act, 2006 (27 of 2006), shall be excluded.

Explanation 3. – The reference rates of foreign currency of the Reserve Bank of India shall prevail.’.

3. In rule 5 of the principal rules, in sub- rule (2), after clause (d), the following clauses shall be inserted, namely:-

"(e) In case an application processed by a natural person is fully or partly transferred to a person other than a natural person, the difference, if any, in the scale of fees between the fees charged from a natural person and the fees chargeable from the person other than natural person in the same matter shall be paid by the new applicant with the request for transfer.

(f) In case an application processed by a small entity is fully or partly transferred to a person other than a natural person (except a small entity), the difference, if any, in the scale of fees between the fees charged from the small entity and the fees chargeable from the person other than natural person (except a small entity) in the same matter shall be paid by the new applicant with the request made for such transfer."

4. In rule 6 of the principal rules, after sub-rule (1), the following proviso shall be inserted, namely:-

"Provided that in the case of small entity, every document, for which a fee has been specified, shall be accompanied by Form-24."

5. In the principal rules, for THE FIRST SCHEDULE, the following SCHEDULE shall be substituted, namely:-

"THE FIRST SCHEDULE

(See rule 5)

FEES

| No. of Entry | On what payable | No. of Form | Fees (in Rupees) | |
|--------------|-----------------|-------------|--------------------|---|
| | | | for Natural Person | For other than Natural Person (s) either alone or jointly with natural person |
| | | | | |
| | | | | |

| | | | | | except small entity |
|----|--|----|------|------|---------------------------|
| 1 | On application for registration of design under sections 5 and 44. | 1 | 1000 | 2000 | 4000 |
| 2 | On claim under section 8 (1) and (5) to proceed as an applicant or joint applicant. | 2 | 500 | 1000 | 2000 |
| 3 | On application for extension of copyright under section 11(2). | 3 | 2000 | 4000 | 8000 |
| 4 | On application for restoration of lapsed design under section 12(2). | 4 | 1000 | 2000 | 4000 |
| 5 | Additional fee for restoration. | - | 1000 | 2000 | 4000 |
| 6 | Inspection of registered design under section 17(1). | 5 | 500 | 1000 | 2000 |
| 7 | On request for information of design when registration No. given under section 18. | 6 | 500 | 1000 | 2000 |
| 8 | On request for information of design when registration No. not given. | 7 | 1000 | 2000 | 4000 |
| 9 | On petition for cancellation of design under section 19 | 8 | 1500 | 3000 | 6000 |
| 10 | Notice of intended exhibition or publication of an unregistered design under section 21. | 9 | 500 | 1000 | 2000 |
| 11 | Application for registration of a document in Register of Design under section 30(3),- | 10 | | | |
| | In respect of one design | | 500 | 1000 | 2000 |
| | For each additional design | | 200 | 400 | 800 |
| 12 | On application for entry of name of proprietor or part proprietor in Register of Design under section 30,- | 11 | | | |
| | In respect of one design | | 500 | 1000 | 2000 |
| | For each additional design | | 200 | 400 | 800 |
| 13 | On application for entry of mortgage or license | 12 | | | |
| | In respect of one design | | 500 | 1000 | 2000 |
| | For each additional design | | 200 | 400 | 800 |
| 14 | Application for entry of | 13 | | | |

| | | | | | |
|----|--|----|--------------------|--------------------|--------------------|
| | notification of a document in the Register of Design under section 30 and rule 37,- | | | | |
| | In respect of one design | | 500 | 1000 | 2000 |
| | For each additional design | | 200 | 400 | 800 |
| 15 | On request for correction of clerical error under section 29. | 14 | 500 | 1000 | 2000 |
| 16 | On request for certification under section 26 and rule 41. | 15 | 500 | 1000 | 2000 |
| 17 | On application for certified copy of registered design under section 17(2). | 16 | 500 | 1000 | 2000 |
| 18 | On application for rectification of Register of Design under section 31. | 17 | 500 | 1000 | 2000 |
| 19 | On application for extension of time for filing priority document under rule 15 & rule 18. | 18 | 200 (per month) | 400 (per month) | 800 (per month) |
| 20 | On notice of opposition under rule 40. | 19 | 100 | 200 | 400 |
| 21 | Notice of intention to attend hearing under rule 29 and 40. | 20 | 500 | 1000 | 2000 |
| 22 | Form for authorization of agent or other person. | 21 | - | - | - |
| 23 | On request to alter names or address or address for service in the Register of Design under rule 31. | 22 | 200 | 400 | 800 |
| 24 | On request for entries of two address in the Register of Design. | 23 | 200 | 400 | 800 |
| 25 | On petition under rule 46 for amendment of any document. | - | 500 | 1000 | 2000 |
| 26 | On petition under rules 29, 40, 47 for enlargement of time. | - | 500 | 1000 | 2000 |
| 27 | Inspection of Register of Design under rule 38 (in respect of each design). | - | 250 | 500 | 1000 |
| 28 | On petition not otherwise provided for. | | 1000 | 2000 | 4000 |
| 29 | To be submitted for claiming the status of a small entity | 24 | No fee | No fee | No fee". |

6. In the principal rules, in THE SECOND SCHEDULE,-

- (i) in the " LIST OF FORMS", after 'Form No.23, the following entry shall be inserted, namely :-

| | | |
|-----|---------------|---|
| "24 | Rules 2 and 5 | To be submitted for claiming the status of a small entity"; |
|-----|---------------|---|

- (ii) in FORMS 1, 4 and 7 for the word, letters and figures "FEE Rs.1000", the words "For fee see First Schedule" shall respectively be substituted;
- (iii) in FORMS 2, 5, 6, 9, 14, 15, 16, 17 and 20 for the word, letters and figures "FEE Rs.500", the words "For fee see First Schedule" shall respectively be substituted;
- (iv) in FORM 3, for the word, letters and figures "FEE Rs. 2000", the words "For fee see First Schedule" shall be substituted;
- (v) in FORM 8, for the word, letters and figures "FEE Rs.1500", the words "For fee see First Schedule" shall be substituted;
- (vi) in FORM 19, for the word, letters and figures "FEE Rs.100", the words "For fee see First Schedule" shall be substituted;
- (vii) in FORMS 22 and 23, for the word, letters and figures "FEE Rs.200", the words "For fee see First Schedule" shall respectively be substituted;
- (viii) in FORMS 10, 11 and 12,-
 - (a) for the word and asterisks "FEE **", the words "For fee see First Schedule" shall respectively be substituted;
 - (b) the asterisks, words and figures namely, " **In respect of one Design Rs. 500.00. For each additional Design Rs. 200.00" shall be omitted;
- (ix) in FORM 13,-
 - (a) for the word and asterisks "FEE **", the words "For fee see First Schedule" shall be substituted;
 - (b) the asterisks, words and figures namely, " Note.- FEE-- ** In respect of one Design Rs. 500.00. For each additional Design Rs. 200.00" shall be omitted;
- (x) in FORM 18,-

(a) for the word and asterisk "FEE *", the words "For fee see First Schedule" shall be substituted;

(b) the asterisks, words and figures namely, "*Rs. 200 per month" shall be omitted.

(xi) after Form No. 23, the following Form shall be inserted, namely :-

"FORM-24
(DESIGNS ACT, 2000)
(See rules 2 and 5)
TO BE SUBMITTED FOR CLAIMING THE STATUS OF A SMALL ENTITY

1. Insert (in full) Name,

I/We.....

Address and nationality

.....

.....

Hereby declare in respect of
the Design Application No.
_____ / registered
Design No _____ that
I/we am/are a small
entity in accordance with
rule 2 (ea) of the
Designs Rules, 2001 and
submit the following
document(s) as proof:

2. State the particulars of the documents

(i) Evidence of registration under the Micro, Small and Medium Enterprise Act, 2006 (27 of 2006) (in case of Indian entities).

(ii) An affidavit deposed by the applicant or authorised signatory (on the basis of deponent's own knowledge) in accordance with rule 42 of the Designs Rules, 2001 clearly stating that the deponent is a small entity as defined under rule 2(g) of the Designs Rules, 2001 (in case of foreign entities).

I / We hereby declare that the information provided herein is correct to the best of my/our knowledge, information and belief and that I / we shall cease to avail any benefit as a small entity in the event of any change in my / our status as a small entity as defined in rule 2(g) of the Designs Rules, 2001.

Dated thisday of20.....

3. To be signed by the applicant(s)/ registered proprietor(s)/authorised registered patent agent

Signature

4. Name of the natural person who has signed. Name
5. Designation and official seal, if any, of the person who has signed Designation

To
The Controller of Designs,
The Patent Office

Note:

1. Availing of benefit of reduction in fee on the basis of incorrect information/ misrepresentation of facts with regard to status as a small entity would mean that the entire fee did not accompany the document, as mandated by rule 5(2)(b). In such a case, in accordance with section 24(2), the filing of the document shall be of no effect unless the fee has been fully paid.
2. A registered design entered into the Register of designs by making any false suggestion or false representation as to the status as small entity may attract the provisions of section 31 of the Designs Act, 2000".
7. In the principal rules, for THE FOURTH SCHEDULE, the following SCHEDULE shall be substituted, namely:-

"THE FOURTH SCHEDULE
(See rule 43)

Scale of costs allowable in proceedings before the Controller

| Number of Entry | Matter in respect of which cost is to be awarded | Amount (in rupees) | |
|-----------------|--|--------------------|---|
| | | For Natural Person | For other than natural person(s) either alone or jointly with natural person(s) |
| | | | For small entity |
| | | | |

| | | | | |
|----|--|--------------------------|--------------------------|--------------------------|
| 1 | For notice of opposition under rule 40 | 100 | 200 | 400 |
| 2 | For petition for cancellation of the registration for design under section 19 | 1000 | 2000 | 4000 |
| 3 | For notice of information to attend hearing | 200 | 400 | 800 |
| 4 | Stamps for power of attorney, where a professional has been appointed | The amount actually paid | The amount actually paid | The amount actually paid |
| 5 | Stamps fee in respect of relevant affidavit | The amount actually paid | The amount actually paid | The amount actually paid |
| 6 | For statement and evidence under sub-rule (1) of rule 29 and sub-rule (2) of rule 40 | 200 | 400 | 800 |
| 7 | Counter statement under sub-rule (3) of rule 29 and sub-rule 4 of rule 40. | 200 | 400 | 800 |
| 8 | For each affidavit, if relevant | 100 | 200 | 400 |
| 9 | For each citation, if relevant | 100 | 200 | 400 |
| 10 | For each unnecessary or irrelevant affidavit or citation | 100 | 200 | 400 |
| 11 | For every day or part of a day hearing before the Controller. | 500 | 1000 | 2000". |

[F. No. 5/6/2013-
IPR-V]


D.V. PRASAD,

Joint Secretary.

Note.-The principal rules were published in the Gazette of India, Extraordinary, vide notification number S.O. 414(E), dated the 11th May, 2001 and subsequently amended vide notification number S.O. 1460(E), dated the 17th June, 2008.