

## SCHEDULE 1

Modifications of the Registered Designs Act 1949 in its application to the Isle of Man

7. For section 3 substitute—

### **“Applications for registration**

**3.**—(1) An application for the registration of a design or designs shall be made in the prescribed form and shall be filed at the Patent Office in the prescribed manner.

(2) An application for the registration of a design or designs shall be made by the person claiming to be the proprietor of the design or designs.

(3) An application for the registration of a design or designs in which national unregistered design right subsists shall be made by the person claiming to be the design right owner.

(5) An application for the registration of a design which, owing to any default or neglect on the part of the applicant, has not been completed so as to enable registration to be effected within such time as may be prescribed shall be deemed to be abandoned.

### **Determination of applications for registration**

**3A.**—(1) Subject as follows, the registrar shall not refuse to register a design included in an application under this Act.

(2) If it appears to the registrar that an application for the registration of a design or designs has not been made in accordance with any rules made under this Act, he may refuse to register any design included in it.

(3) If it appears to the registrar that the applicant is not under section 3(2) or (3) or 14 entitled to apply for the registration of a design included in the application, he shall refuse to register that design.

(4) If it appears to the registrar that the application for registration includes—

- (a) something which does not fulfil the requirements of section 1(2) of this Act;
- (b) a design that does not fulfil the requirements of section 1C or 1D of this Act; or
- (c) a design to which a ground of refusal mentioned in Schedule A1 to this Act applies,

he shall refuse to register that thing or that design.

### **Modification of applications for registration**

**3B.**—(1) The registrar may, at any time before an application for the registration of a design or designs is determined, permit the applicant to make such modifications of the application as the registrar thinks fit.

(2) Where an application for the registration of a design or designs has been modified before it has been determined in such a way that any design included in the application has been altered significantly, the registrar may, for the purpose of deciding whether and to what extent the design is new or has individual character, direct that the application so far as relating to that design shall be treated as having been made on the date on which it was so modified.

(3) Where—

*Status: This is the original version (as it was originally made).*

- (a) an application for the registration of more than one design has been modified before it has been determined to exclude one or more designs from the application; and
- (b) a subsequent application for the registration of a design so excluded has, within such period (if any) as has been prescribed for such applications, been made by the person who made the earlier application or his successor in title,

the registrar may, for the purpose of deciding whether and to what extent the design is new or has individual character, direct that the subsequent application shall be treated as having been made on the date on which the earlier application was, or is treated as having been, made.

(4) Where the registration of a design has been refused on any ground mentioned in section 3A(4)(b) or (c) of this Act, the application for the design may be modified by the applicant if it appears to the registrar that—

- (a) the identity of the design is retained; and
- (b) the modifications have been made in accordance with any rules made under this Act.

(5) An application modified under subsection (4) above shall be treated as the original application and, in particular, as made on the date on which the original application was made or is treated as having been made.

(6) Any modification under this section may, in particular, be effected by making a partial disclaimer in relation to the application.

### **Date of registration of designs**

**3C.**—(1) Subject as follows, a design, when registered, shall be registered as of the date on which the application was made or is treated as having been made.

(2) Subsection (1) above shall not apply to an application which is treated as having been made on a particular date by section 14(2) of this Act or by virtue of the operation of section 3B(3) or (5) of this Act by reference to section 14(2) of this Act.

- (3) A design, when registered, shall be registered as of—
  - (a) in the case of an application which is treated as having been made on a particular date by section 14(2) of this Act, the date on which the application was made;
  - (b) in the case of an application which is treated as having been made on a particular date by virtue of the operation of section 3B(3) of this Act by reference to section 14(2) of this Act, the date on which the earlier application was made;
  - (c) in the case of an application which is treated as having been made on a particular date by virtue of the operation of section 3B(5) of this Act by reference to section 14(2) of this Act, the date on which the original application was made.

### **Appeals in relation to applications for registration**

**3D.** An appeal lies from any decision of the registrar under section 3A or 3B of this Act.”.