Designs Amendment Regulations 2004 (No. 2)\(^1\)

Statutory Rules 2004 No. \(^2\)

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the Designs Act 2003.

Dated 18 NOV 2004 2004

PM Jeffery

Governor-General

By His Excellency’s Command

IAN MACFARLANE

Minister for Industry, Tourism and Resources
1 Name of Regulations
These Regulations are the Designs Amendment Regulations 2004 (No. 2).

2 Commencement
These Regulations commence on the date of their notification in the Gazette.

3 Amendment of Designs Regulations 2004
Schedule 1 amends the Designs Regulations 2004.

Schedule 1 Amendments
(regulation 3)

[1] Subregulation 1.04 (1), after definition of Official Journal
insert
old Act means the Designs Act 1906.
old Regulations means the Designs Regulations 1982.
transitional application has the meaning given by subregulation 12.03 (6).

[2] Subregulation 3.04 (1), at the foot
insert
Note. For a design application in respect of a design excluded from certain transitional applications, see also regulation 12.03.
[3] Regulation 3.08, at the foot

*insert*

*Note* This regulation also applies to a design excluded from certain transitional applications, see regulation 12.03.

[4] Paragraphs 3.14 (1) (a) and (b)

*substitute*

(a) if the design is an excluded design — the period:
   (i) starting on the day when the request to exclude the design is filed; and
   (ii) ending on the day when the application is filed; or

(b) if the design is a design mentioned in section 55 of the Act, and the period of 6 months from the priority date of the design has expired when an application is filed as mentioned in that section — the day when the application is filed; or

[5] Subregulation 3.14 (1), at the foot

*insert*

*Note* Paragraph 3.14 (1) (a) also applies to a design excluded from certain transitional applications, see regulation 12.03.

[6] Subregulation 4.01 (1)

*omit*

Act.

*insert*

Act or in subregulation 12.03 (2).

[7] Subregulation 4.04 (1), at the foot

*insert*

*Note* For a design application in respect of a design excluded from certain transitional applications, see also regulation 12.03.

2004, Designs Amendment Regulations 2004 (No. /) 3 325 2
[8]  Subregulation 4.05 (1), at the foot

*insert*

*Note* For a design application in respect of a design excluded from certain transitional applications, see also regulation 12.03.

[9]  Subregulation 4.08 (1), note

*substitute*

*Note 1* A *statement of newness and distinctiveness* is described in paragraph 19 (2) (b) of the Act.

*Note 2* For a design application in respect of a design excluded from certain transitional applications, see also regulation 12.03.

[10]  Subregulation 4.08 (2), note

*substitute*

*Note 1* A *statement of newness and distinctiveness* is described in paragraph 19 (2) (b) of the Act.

*Note 2* For a design application in respect of a design excluded from certain transitional applications, see also regulation 12.03.


*omit*

14 or 15

*insert*

14, 15 or 16

[12]  After regulation 12.02

*insert*

12.03  Designs excluded from transitional applications that are not converted applications

(1) This regulation applies if:

(a) 1 or more designs are disclosed in a transitional application; and
(b) the transitional application is amended under section 22B of the old Act to exclude 1 or more of those designs; and
(c) the transitional application is not a converted application; and
(d) before the registration, or the refusal of the registration, of the design or designs in the transitional application, the applicant files a design application under section 21 of the Act in respect of 1 or more of the designs excluded from the transitional application (the excluded transitional designs).

Note For a transitional application that is a converted application, see section 160 of the Act.

(2) A design application in respect of excluded transitional designs must include a request for registration or publication of all the designs disclosed in the application.

(3) In applying these Regulations (other than regulations 1.04 and 3.02) in relation to an excluded transitional design:
   (a) a reference to an excluded design is taken to be a reference to the excluded transitional design; and
   (b) a reference to an initial application is taken to be a reference to the transitional application; and
   (c) a reference to ‘the design number that was allocated to the excluded design in the initial application’ is taken to be a reference to ‘the application number of the transitional application in which the excluded transitional design was disclosed’; and
   (d) a reference to ‘a design application mentioned in subsection 23 (2) of the Act’ is taken to be a reference to ‘a design application mentioned in paragraph 12.03 (1) (d)’.

(4) Subregulation (5) applies in relation to a design application mentioned in paragraph (1) (d) that was filed before this regulation commences.
(5) If a request for registration or publication of each design disclosed in the design application is filed within the period prescribed under these Regulations, as in force immediately before this regulation commences:

(a) the request is taken to have been filed on the day when the design application was filed; and

(b) the design application is taken to have complied with subregulation (2).

(6) In this regulation:

transitional application means an application for registration of a design that was made under the old Act before 17 June 2004.

12.04 Protection and compensation provisions — transitional

(1) Subsections 18 (3) and 18 (4) of the old Act, and regulations 29AA, 29A and 29B of, and Schedule 1 to, the old Regulations, are taken to have effect, in relation to an application for a licence under subregulation 29AA (2) of the old Regulations, as if those provisions had not been repealed.

(2) Subsection 27B (7) of the old Act, and regulations 29, 29A and 29B of, and Schedule 1 to, the old Regulations, are taken to have effect, in relation to an application for a licence under subregulation 29 (2) of the old Regulations, as if those provisions had not been repealed.

[13] Schedule 4, item 12, column 3, paragraph (a)

omit

9 or 10

insert

10 or 11
Schedule 4, after item 15

insert

16 Filing a request for certification of a document $25

Notes
1. These Regulations amend Statutory Rules 2004 No. 117.