# Commission Regulation (EC) No 2246/2002 of 16 December 2002 on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) in respect of the registration of Community designs

## COMMISSION REGULATION (EC) No 2246/2002

## of 16 December 2002

## on the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) in respect of the registration of Community designs

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs[(1)] and in particular Article 107 thereof,

Whereas:

(1) In the light of Article 139 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark[(2)], as amended by Regulation (EC) No 3288/94[(3)] which by virtue of Article 97 of Regulation (EC) No 6/2002 is also applicable to this Regulation the amounts of the fees should be fixed at such a level as to ensure that the revenue in respect thereof is in principle sufficient for the budget of the Office to be balanced.

(2) Commission Regulation (EC) No 2245/2002 of 21 October 2002 implementing Council Regulation (EC) No 6/2002 on Community designs[(4)] also deals with the conditions under which the fees established by Regulation (EC) No 6/2002 have to be paid to the Office.

(3) To ensure the necessary flexibility, the President of the Office should be empowered, subject to certain conditions, to lay down the charges which may be payable to the Office in respect of services it may render, the charges for access to the Office databases and the making available of the contents of these databases in machine-readable form, and to set charges for the sale of the Office's publications.

(4) In order to facilitate the payment of fees and charges, the President should be empowered to authorise methods of payment which are additional to those explicitly provided for in this Regulation.

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee established under Article 109 of Regulation (EC) No 6/2002,

HAS ADOPTED THIS REGULATION:

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EC) No 2246/2002. (See end of Document for details)*

*Article 1*

**Subject matter**

This Regulation lays down the amounts and rules for payment of the following:

1. **[**F1fees payable to:

   (a) the Office for Harmonization in the Internal Market (Trade Marks and Designs) (hereinafter the 'Office') on the basis of Regulation (EC) No 6/2002 and Regulation (EC) No 2245/2002;

   (b) the International Bureau of the World Intellectual Property Organisation on the basis of the Geneva Act of the Hague Agreement concerning the International Registration of Industrial Designs adopted on 2 July 1999 (hereinafter 'the Geneva Act') approved by Council Decision 2006/954/EC(5)

2. charges laid down by the President of the Office.**]**

**Textual Amendments**

**F1** Substituted by Commission Regulation (EC) No 877/2007 of 24 July 2007 amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs.

*[*F1*Article 2*

**Fees**

1 The fees payable to the Office on the basis of Regulation (EC) No 6/2002 and Regulation (EC) No 2245/2002 are set out in the Annex to this Regulation.

2 Individual designation fees payable to the International Bureau on the basis of Article 7(2) of the Geneva Act in conjunction with Article 106c of Regulation (EC) No 6/2002 and Article 13(1) of that Regulation and Article 22(2)(a) of Regulation (EC) No 2245/2002 are set out in the Annex to this Regulation.**]**

**Textual Amendments**

**F1** Substituted by Commission Regulation (EC) No 877/2007 of 24 July 2007 amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs.

*Article 3*

**Charges laid down by the President**

1 The President shall lay down the amount to be charged for any services rendered by the Office other than those specified in the Annex.

2 The President shall lay down the amount to be charged for the Community Designs Bulletin as well as any other publications issued by the Office.

3 The amounts of the charges shall be laid down in euro.

4 The amounts of the charges laid down by the President in accordance with paragraphs 1 and 2 shall be published in the Official Journal of the Office.

*Article 4*

**Due date for fees and charges**

1 Fees and charges in respect of which the due date is not specified in Regulation (EC) No 6/2002 or in Regulation (EC) No 2245/2002 shall be due on the date of receipt of the request for the service for which the fee or the charge is incurred.

2 The President may decide not to make services mentioned in paragraph 1 dependent upon the advance payment of the corresponding fees or charges.

*Article 5*

**Payment of fees and charges**

**[**F1 1 Fees and charges due to the Office shall be paid in euro by payment or transfer to a bank account held by the Office.**]**

2 The President may determine methods of payment other than those set out in paragraph 1, in particular by means of deposits in current accounts held with the Office. Those methods shall be published in the Official journal of the Office.

**Textual Amendments**

**F1** Substituted by Commission Regulation (EC) No 877/2007 of 24 July 2007 amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs.

*Article 6*

**Particulars concerning payment**

1 Every payment shall indicate the name of the person making the payment and shall contain the necessary information to enable the Office to establish immediately the purpose of the payment. In particular, the following information shall be provided:

**Changes to legislation:** *There are currently no known outstanding effects for the Commission Regulation (EC) No 2246/2002. (See end of Document for details)*

a when the registration fee is paid, the purpose of the payment, namely 'registration fee' and, where appropriate, the reference provided by the applicant in the application for the registration of a Community design;

b when the publication fee is paid, the purpose of the payment, namely 'publication fee' and, where appropriate, the reference provided by the applicant in the application for the registration of a Community design;

c when the publication fee is paid as provided for in Article 50(4) of Regulation (EC) No 6/2002, the purpose of the payment, namely 'publication fee' and the registration number;

d when the fee for the deferment of publication is paid, the purpose of the payment, namely 'deferment fee' and, where appropriate, the reference provided by the applicant in the application for the registration of a Community design;

e when the invalidity fee is paid, the registration number and the name of the holder of the registered Community design against which the application is directed, and the purpose of the payment, namely 'invalidity fee'.

2 If the purpose of the payment cannot immediately be established, the Office shall require the person making the payment to notify it in writing of this purpose within such period as it may specify. If the person does not comply with the request in due time, the payment shall be considered not to have been made. The amount which has been paid shall be refunded.

*Article 7*

**Deemed date of payment**

**[**[F1]1 The date on which any payment shall be considered to have been made to the Office shall be the date on which the amount of the payment is actually entered in a bank account held by the Office.**]**

2 Where the President allows, in accordance with the provisions of Article 5(2), other methods of paying fees than those set out in Article 5(1), he shall also lay down the date on which such payments shall be considered to have been made.

3 Where, pursuant to paragraphs 1 and 2, payment of a fee is not considered to have been made until after the expiry of the period in which it was due, it shall be considered that this period has been observed if evidence is provided to the Office that the person who made the payment:

**[**[F1]a duly gave an order to a banking establishment to transfer the amount of the payment in a Member State within the period within which the payment should have been made; and**]**

b paid a surcharge of 10 % on the relevant fee or fees, but not exceeding EUR 200;

no surcharge is payable if a condition according to subparagraph a has been fulfilled not later than 10 days before the expiry of the period for payment.

4 The Office may request the person who made the payment to produce evidence as to the date on which a condition according to paragraph 3(a) was fulfilled and, where required, to pay the surcharge referred to in paragraph 3(b), within a period to be specified by it. If the person fails to comply with this request or if the evidence is insufficient, or if the required surcharge is not paid in due time, the period for payment shall be considered not to have been observed.

**Textual Amendments**

**F1** Substituted by Commission Regulation (EC) No 877/2007 of 24 July 2007 amending Regulation (EC) No 2246/2002 concerning the fees payable to the Office for Harmonization in the Internal Market (Trade Marks and Designs) following the accession of the European Community to the Geneva Act of the Hague Agreement concerning the international registration of industrial designs.

*Article 8*

**Insufficiency of the amount paid**

1 A time limit for payment shall, in principle, be considered to have been observed only if the full amount of the fee has been paid in due time. If the fee is not paid in full, the amount which has been paid shall be refunded after the period for payment has expired.

2 The Office may, however, in so far as this is possible within the time remaining before the end of the period, give the person making the payment the opportunity to pay the amount lacking or, where this is considered justified, forego any small amounts lacking without prejudice to the rights of the person making the payment.

*Article 9*

**Refund of insignificant amounts**

1 Where an excessive sum is paid to cover a fee or a charge, the excess shall not be refunded if the amount is insignificant and the party concerned has not expressly requested a refund.

The President shall determine what constitutes an insignificant amount.

2 Determinations by the President pursuant to paragraph 1 shall be published in the Official Journal of the Office.

*Article 10*

**Entry into force**

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.