

ANNEX 8
DRAFT REGULATIONS

RULES IMPLEMENTING THE LAYOUT-DESIGNS
(TOPOGRAPHIES) OF INTEGRATED CIRCUITS ACT 2002

(Issued by the Minister in accordance
with Section 21 of the Act)

Contents

- Regulation 1: Short Title and Date of Operation
- Regulation 2: Interpretation
- Regulation 3: Fees
- Regulation 4: Forms
- Regulation 5: Language of Documents and Translations
- Regulation 6: Indication of Name, Address, Nationality and Residence
- Regulation 7: Signatures by Partners, Companies and Associations
- Regulation 8: Representation by Agent
- Regulation 9: Application for Registration of a Layout-Design
- Regulation 10: Withdrawal of Application
- Regulation 11: Marking Application
- Regulation 12: According and Notifying Filing Date; Examination; Decision to Grant or Refuse Application
- Regulation 13: Registration of Layout-Design, Publication of Reference Thereto; Issuance of Certificate
- Regulation 14: Entries in the Register
- Regulation 15: Changes in Ownership; License Contracts
- Regulation 16: Address for Service
- Regulation 17: Excluded Days
- Regulation 18: Consultation of Register; Request for Extracts Therefrom and for Copies of Documents
- Regulation 19: Inspection of License Contracts
- Regulation 20: Corrections of Errors
- Regulation 21: Hearing
- Regulation 22: Service by Mail
- Regulation 23: Extension of Time Limit
- Regulation 24: Directions as to Furnishing of Documents
- Regulation 25: Corrections of Irregularities
- Regulation 26: Dispensation by the Controller
- Regulation 27: Hours of Business
- Regulation 28: Evidence
- Regulation 29: Statutory Declarations and Affidavits
- Regulation 30: Publication; Gazette

SCHEDULE I: Fees

SCHEDULE II: Forms

Regulations Implementing the Layout-Designs (Topographies)
of Integrated Circuits Act 2002

These Rules are issued by the Minister in accordance with Section 21 of the Act.

Short Title and Date of Operation	1. These Regulations may be cited as the Layout- Designs (Topographies) of Integrated Circuits Regulations 2002 and shall come into operation on
Interpretation	2. In these Regulations, unless the context otherwise requires, <ul style="list-style-type: none">(i) "Act" means the Layout-Designs (Topographies) of Integrated Circuits Act, 2002;(ii) "Agent" means a Law Practitioner resident and practicing in Tonga representing the applicant(iii) "Minister" means Minister for Labour, Commerce & Industries(iv) "Registrar" means the Registrar for Industrial Property(v) "Section" refers to the specified Section of the Act;(vi) "Regulations" means these Regulations;(vii) "Regulation" refers to the specified Rule of these Regulations.
Fees	3. The fees to be paid in respect of matters arising under the Act or these Rules shall be those specified in the Schedule of Fees Schedule I annexed to and forming part of these Regulations.
Forms	4.(1) The forms referred to in these Regulations are those set out in Schedule II annexed to and forming part of these Regulations. (2) Copies of the printed forms shall be furnished free of charge by the Registrar. (3) A requirement under these Regulations to use such a form is satisfied by the use either of a replica of

that form or of a form which is acceptable to the Registrar and contains the information required by the form set out in that Schedule.

Language of Documents and Translations

5. Applications shall be in the English language, and any document forming part of an application or submitted to the Registrar pursuant to the Act or these Rules and which is in a language other than English shall be accompanied by an English translation.

Indication of Name, Address, Nationality and Residence

6.(1) Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s); the names of legal entities shall be indicated by their full, official designations.

(2) Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address and, in any case, shall consist of all the relevant administrative units, including the house number, if any; addresses shall also indicate telegraphic and telex addresses and facsimile and telephone numbers.

(3) Nationality shall be indicated by the name of the State of which a person is national; legal entities shall indicate the name of the State under whose laws they are constituted and their Registered Office.

(4) Residence shall be indicated by the name of the State of which a person is a resident.

Signatures by Partnerships, Companies and Associations

7.(1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the or by any partner qualified to sign, stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document; a document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorized to sign the document and shall bear the seal of the body corporate; a document purporting to be signed for or on behalf of an association of persons may be signed by any person who satisfies the Registrar that he is duly authorized.

(2) The Registrar may, whenever he deems it necessary, request evidence of authorization to sign.

Representation

8.(1) The appointment of an Agent shall be by a power of attorney which shall be signed by the applicant or, if there are more than one, by each applicant.

(2) The power of attorney appointing an Agent shall be filed together with the application; if the appointment is not thus made and is not in accordance with Section 14 and paragraph (1), any procedural steps taken by the Law Practitioner, other than the filing of the application, shall be deemed not to have been taken.

Application for Registration of a Layout-Design

9.(1) The application for the registration of a layout-design shall be made on Form No. 1 and shall be signed by each applicant.

(2) The application shall indicate each applicant's name, address, nationality and residence.

(3) Where the applicant is the creator, the request shall contain a statement to that effect, and, where he is not, it shall indicate each creator's name and address and be accompanied by the statement justifying the applicant's right to the registration of the layout-design.

(4) The brief and precise designation of the layout-design shall consist of the title of the layout-design indicating the matter to which it relates or indicating the field to which the article in which it is intended to be incorporated, or has been incorporated, relates.

(5) Where the application was accompanied by a copy of the layout-design, the applicant shall file a drawing thereof within a period of one month.

Withdrawal of Application

10.(1) The application may be withdrawn by written declaration submitted to the Registrar and signed by each applicant.

(2) The application fee shall not be refunded if the application is withdrawn.

Marking Application

11.(1) Upon receipt, the Registrar shall mark, on each document making up the application, the actual date of receipt and the application number consisting of the letters T, stroke, the letter LD,

Accordinging and
Notifying Filing
Date; Examination;
Decision to Grant
or Refuse
Application

stroke, the last two digits of the year in which the initial papers were received, stroke, and a five-digit number allotted in the sequential order in which applications are received. Where any corrections or other later filed documents are received on different dates, the Registrar shall also mark their actual date of receipt in the appropriate place of the request for registration of the layout design (Form No. 1).

(2) The application number allotted under paragraph (1) shall be cited in all subsequent communications concerning the application.

12.(1) The Registrar shall examine whether the application fulfills the requirements set out in Section 9(2).

(2)(a) Where the Registrar finds that the application did not at the time of receipt fulfill the requirements referred to in paragraph (1), he shall invite the applicant to file the required correction.

(b) The invitation to file any correction shall be in writing; it shall specify the correction or corrections required and request that these be filed within two months from the date of the said invitation, together with the payment of the prescribed fee.

(3) Once the Registrar accords a filing date, he shall so notify the applicant in writing; if the application is treated as if had not been filed, under Section 9, the Registrar shall notify the applicant in writing, specifying the reasons.

(4)(a) Where the conditions set out in Section 9 are not fulfilled, the Registrar shall reject the application and notify the applicant stating the reasons.

(b) Where the Registrar finds that the conditions set out in Section 9 and the Rules pertaining thereto are not fulfilled, he shall invite the applicant, in writing, to file the required correction within two months from the date of the invitation, together with the payment of the prescribed fee; if the applicant does not comply with the invitation to correct a deficiency, or where, despite corrections submitted by the applicant, the Registrar is of the opinion that the said conditions are not fulfilled, he shall reject the application and notify the applicant, in writing, stating the reasons.

(5) Refusal of the application shall not affect its filing date which shall remain valid.

(6) The Registrar shall notify the applicant, in writing, of his decision to grant or to refuse the application, and, in the case of a decision to grant the application, he shall require the applicant to pay the registration and publication fee within one month from the date of the notification.

Registration of Layout-Design;
Publication of Reference Thereto;
Issuance of Certificate

13.(1) Subject to the payment of the registration and publication fee within the period prescribed in Rule 12(6) the Registrar shall register the layout-design in accordance with Section 10 and this Rule, publish a reference to the registration and issue to the applicant a certificate of registration.

(2) The Registrar shall allot to each layout-design he registers a number in the sequential order of registration.

(3) The registration of a layout-design shall include, in addition to the particulars specified in Section 10, a copy or drawing thereof, and shall specify

- (i) the name and address of the registered owner;
- (ii) the name and address of the agent, if any;
- (iii) the name and address of the creator, except where he has asked not to be named in the registration; and
- (iv) the date of the first commercial exploitation, anywhere in the world, of the layout-design or an indication that such exploitation has not yet commenced.

(4) The publication of the reference to the registration of a layout-design, under paragraph (1), shall contain the particulars specified in paragraph (3).

(5) The certificate of registration of a layout-design shall be issued on Form No. 2.

Entries in the

14.(1) The Registrar shall cause to be entered in the

Register

register in respect of every layout-design, in addition to the information indicated in Rule 13(3),

(a) the address for service;

(b) the date on which the layout-design registration expired [or was surrendered] or canceled;

(c) any change in name or address, or any change in address for service or ownership in accordance with Rules 15 and 16, below;

(d) the fact that a license contract has been concluded and recorded pursuant to Section 12.

Changes in
Ownership;
License Contracts

15.(1) The request, under Section 12, for the recording of a change in ownership of a layout-design registered under the Act or of application therefore shall be made to the Registrar on Form No. 3 and shall be subject to payment of the prescribed fee.

(2) The publication of the change in ownership shall specify

(i) the number of the application or registration concerned;

(ii) the filing date, the date, if any, of first commercial exploitation, anywhere in the world, and the date of registration;

(iii) the owner and the new owner; and

(iv) the nature of the change in ownership.

(3) A license contract submitted for recordal under Section 12 shall be accompanied by the prescribed fee.

Address for
Service

16.(1) There shall be furnished to the Registrar:

(i) by every applicant for the registration of a layout-design, an address for service in Tonga for the purpose of his application, and

(ii) by every person (including the applicant for, or the owner of, a layout-design, as the case may be) concerned in any proceedings to which any of these Rules relate, an address for service in Tonga,

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

(2) Where an Agent has been appointed in accordance with Section 14 and Regulation 8, the address of the Agent shall, for all purposes connected with the Act and these Rules, be treated as the address to which communications to the person or persons who appointed the Law Practitioner shall be transmitted.

Excluded Days

17. When the last day for doing any act or taking any proceeding falls on a day when the Registrar's Office is not open to the public for business, it shall be lawful to do the act or to take the proceeding on the day when the Registrar's Office is next open for business.

Consultation of

18. Consultation of the Register shall be subject to

persons, at least two weeks notice, in writing, of the date and time of the hearing.

Service by Mail

22.(1) Any notice application or other document sent to the Registrar by mail shall be deemed to have been given, made or filed at the time when it would be delivered in the ordinary course of the mail. In proving such sending, it shall be sufficient to prove that the letter containing such notice, application or other document was properly addressed and sent by registered mail.

Extension of Time Limit

23.(1) The time periods prescribed by these Rules for doing any act or taking any proceeding thereunder, may be extended by the Registrar if he thinks fit, upon such notice to the parties and upon such terms as he may direct and such extensions may be granted although the time or period for doing such act or taking such proceeding has already expired.

Directions as to Furnishing of Documents

24. At any stage of any proceedings before the Registrar, he may direct that such documents, information or evidence as he may require be furnished within such period of time as he may fix.

Corrections of Irregularities

25. Any irregularity in procedure before the Registrar may be rectified, on such terms as he may direct.

Dispensation by the Registrar

26. Where, under these Regulations, any person is to do any act or thing, 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 person is unable to do that act or thing, or that that document or evidence cannot be produced or filed, the Registrar may, upon the production of such evidence and subject to such terms as he thinks fit, dispense with the doing of any such act or thing, or the production or filing of such document or evidence.

Hours of Business

27. The Registrar's Office shall be open to the public from Monday to Friday inclusive, each week, between

Statutory
Declarations
and Affidavits

addition to such evidence and shall allow any witness to be cross-examined on ~~an~~ affidavit or declaration.

29.(1) Any ~~statutory~~ declaration or affidavit filed under the Act or ~~the~~ Regulations shall be made before

any officer ~~authorized~~ by law in any part of Tonga to administer an oath for the purpose of any legal proceedings.

(2) Statutory declarations or affidavits made outside Tonga shall be made ~~before~~ a Consul or Notary Public.

Publication; Gazette

30.(1) Particulars of layout-designs of integrated circuits and other proceedings under the Act and any other information required to be published under the Act or these Regulations shall be published ~~in~~ the Gazette or in any other publication as directed by the Registrar.

SCHEDULE I

Fees

Matter or Proceeding	Amount of Fee	Form
Application fee (Section 9(5))	T\$100.00	Form No. 1
Correction of application in order to comply with requirements for according filing date (Section 9; Rgulation 12(2))	T\$40.00	
Correction of application in order to comply with formal requirements (Section 9,; Regulation 12(4))	T\$40.00	
Registration and publication fee (Section 10; Regulations 12(6) and 13(1))	T\$100.00	
Request for recordal of change in ownership (Section 12; Regulation 15(1))	T\$50.00	Form No. 3
Submission of licence contract for recordal (Section 12; Regulation 15(2))	T\$50.00	

Inspection of Register (for every quarter of an hour or part thereof) (Section 10; Regulation 18)	T\$1.00	
Certified copies of documents (per page) (Section 10; Regulation 18)	T\$5.00	
Request for correction of error (Regulation 20)	T\$40.00	
Request for hearing (Regulation 21(2))	T\$100.00	

SCHEDULE II

Forms

INTELLECTUAL PROPERTY OFFICE, TONGA	
<p>Form No. 1 LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS ACT</p> <p>APPLICATION FOR REGISTRATION OF LAYOUT-DESIGN</p> <p>To: The Registrar [Address]</p>	<p>Use _____ For _____ Official _____</p> <p>Date _____ of _____ Receipt _____ by _____</p> <p>Intellectual Property Office:</p> <p>APPLICATION No.: _____</p> <p>(Office's _____ Stamp)</p> <p>FILING DATE: _____</p> <p>Applicant's _____ or _____ Representatives _____</p> <p>File Reference: _____</p>

THE APPLICANT(S) REQUEST(S) THAT THE FOLLOWING LAYOUT-DESIGN
BE REGISTERED:

I. APPLICANT(S)*

Additional information is contained in supplemental

Name:

Address:

Nationality:

Country of residence or
principal place of business:

No.: Tel. No.: Telegraphic Address: Telex No.: Fax

Address for service in
Tonga*:

II. AGENT

The following Agent has been appointed

III. REPRESENTATIONS OF THE LAYOUT-DESIGN

This Form is accompanied by:

- four copies** of the layout-design;
- four copies** of the layout-design allowing the identification of the layout-design, whereby such parts of the copies ~~relate~~ relate to the manner of the manufacture of the integrated circuit have been ~~included~~ included in accordance with Section 9;
- four drawings** of the layout-design;
- four drawings** of the layout-design allowing the identification of the layout-design, whereby such parts of the drawings ~~wh~~ relate to the manner of manufacture of the integrated circuit have been omitted in accordance with Section 9.

IV. DESIGNATION

.....
.....

(Title of the layout-design indicating, pursuant to Rule 9(4), the matter to which it relates or the field to which the article which it is intended to be incorporated, or has been incorporated, relates.)

V. CREATOR

The creator is the applicant

Additional information is
contained
in supplemental box

If creator is not the applicant:

Name:

Address:

VI. COMMERCIAL EXPLOITATION

The layout-design has already been commercially exploited in

Date of first commercial exploitation:

The layout-design has not yet been commercially exploited, anywhere in the world

VII. FEES accompany this Form

VIII. SUPPLEMENTAL BOX*

IX. SIGNATURE(S) (Applicant(s)/Agent^{**})

.....
(Date)

..... (Applicant(s)/Agent^{**})
(Date)

* Use this box if any of the boxes is not large enough to contain information to be furnished. Indicate the boxes continued in this box by their Roman numerals and title

2. Date of receipt of corrections and later filed papers completing the application:
3. Date fees received:

INTELLECTUAL PROPERTY OFFICE, TONGA

Form No. 2
LAYOUT-DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS ACT
CERTIFICATE OF REGISTRATION OF
LAYOUT-DESIGN

In accordance with Section 10 and Rule 13, hereby certified that a layout-design
having the registration No. has been registered for:

Name:

Address:

on(date)...

in respect of a layout-design disclosed in an application for registration of that layout-design, having
the following

filing date:

date of first commercial exploitation:

being a layout-design for:
(title)

created by:

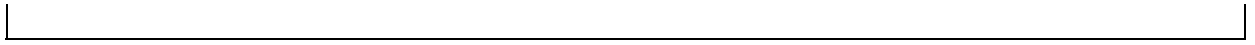
Name:

Address:

A drawing of the layout-design accompanies this Certificate.

Date:

Registrar



INTELLECTUAL PROPERTY OFFICE, TONGA

Form No. 3
LAYOUT-DESIGNS (TOPOGRAPHIES)
OF INTEGRATED CIRCUITS ACT

For Official Use

Received on:

RECORDAL OF CHANGE IN OWNERSHIP

To: The Registrar
[Address]

Applicant's or Representative's
File Reference:

.....	(Applicant(s)/Owner(s)/Agent (Date)
-------	--	-------

- * Delete whichever does not apply.
- ** Delete whichever does not apply and type name(s) under signature.