

TRADE MARKS RULES**CONTENTS**

Section		Page
---------	--	------

PRELIMINARY

1.	Commencement	1
2.	Interpretation	1
3.	Forms and directions	2
4.	Filing of documents	3
5.	Fees	3
6.	Classification of goods and services	4

GENERAL APPLICATION PROCEDURES**Application for registration**

7.	Filing of application	5
8.	Application shall specify class or classes	6
9.	Claim to priority	6
10.	Deficiencies in application	7
11.	Failure to meet requirements for registration	8
12.	Publication of particulars of application	9

Opposition proceedings

13.	Filing of notice of opposition	9
14.	Filing of counter-statement	10
15.	Filing of evidence	11
16.	Hearing	12

Section		Page
17.	Directions on procedure	13
17A.	Substitution of parties	14
18.	Decision of Registrar in opposition proceedings	14

Amendment, division and merger of applications

19.	Amendment of application	15
20.	Amendment of application after publication	15
21.	Division of application	16
22.	Merger of separate applications	17

REGISTRATION

23.	Registration	18
24.	Publication of registration	19
25.	Renewal of registration	20
26.	Reminder of renewal of registration	20
27.	Delayed renewal and removal of registration	21
28.	Restoration of registration	22

DISCLAIMERS, LIMITATIONS AND CONDITIONS

29.	Registration subject to disclaimer, limitation or condition	22
-----	---	----

ALTERATION, MERGER AND SURRENDER OF REGISTRATION

30.	Alteration of registered trade mark	23
31.	Merger of separate registrations	24

Section		Page
---------	--	------

32.	Surrender of registered trade mark	25
-----	------------------------------------	----

REVOCATION, INVALIDATION AND VARIATION
OF REGISTRATION

33.	Revocation of registration (on grounds of non-use)	26
-----	--	----

34.	Revocation of registration (other than on grounds of non-use)	28
-----	--	----

35.	Declaration of invalidity of registration	30
-----	---	----

36.	Variation of registration	32
-----	---------------------------	----

37.	Interventions	33
-----	---------------	----

37A.	Substitution of parties	34
------	-------------------------	----

CHANGE OF CLASSIFICATION OF GOODS OR SERVICES

38.	Change of classification	34
-----	--------------------------	----

39.	Opposition to proposals	36
-----	-------------------------	----

REGISTRABLE TRANSACTIONS

40.	Application to register or give notice of registrable transaction	37
-----	--	----

41.	Entry in register of particulars of registrable transaction	38
-----	---	----

RECTIFICATION AND CORRECTION OF THE REGISTER

42.	Application for rectification of the register	40
-----	---	----

Section		Page
43.	Request for change of name or address, etc., recorded in register	41
44.	Correction of errors or omissions in register	42
45.	Removal of matter from register	43

INSPECTION OF THE REGISTER AND FILED DOCUMENTS

46.	Public inspection of register	44
47.	Supply of certified copies, etc.	44
48.	Inspection of documents	45

REQUESTS FOR INFORMATION AND ADVICE

49.	List of pending applications or registered trade marks	47
50.	Official search of records for specified goods or services	47
51.	Preliminary advice by Registrar	48

PROCEEDINGS BEFORE REGISTRAR

Hearings

52.	Hearings before Registrar	49
53.	Registrar not required to hold hearings in certain cases	50
54.	Hearings to be public	50
55.	Language of hearings	51

Section		Page
Evidence		
56.	Evidence in proceedings before Registrar	51
57.	Statutory declarations and affidavits	52
58.	Registrar's power to require documents, information or evidence	53
Costs		
59.	Security for costs	53
60.	Taxation of costs	54
Case management conference and pre-hearing review		
61.	Case management conference	54
62.	Pre-hearing review	54
Decision of Registrar		
63.	Decision of Registrar	55
AMENDMENT OF DOCUMENTS, RECTIFICATION OF IRREGULARITIES AND EXTENSION AND ALTERATION OF TIME LIMITS		
64.	Amendment of documents and rectification of irregularities	55
65.	Extension and alteration of time limits	56
66.	Extension of time limits in case of interruption in Registry's operations	58

Section		Page
SERIES' TRADE MARKS, DEFENSIVE TRADE MARKS, COLLECTIVE MARKS AND CERTIFICATION MARKS		
67.	Application for registration of series of trade marks	59
68.	Deletion of trade mark in series	60
69.	Application for registration of defensive trade mark	60
70.	Filing of regulations for collective marks and certification marks	61
71.	Amendment of regulations of collective marks and certification marks	61
AGENTS		
72.	Proof of authorization of agent may be required	62
73.	Registrar may refuse to deal with certain agents	63
ADDRESS FOR SERVICE		
74.	Address for service	63
MISCELLANEOUS MATTERS		
75.	Directions on hours of business and business days	65
76.	Publication and sale of documents	66
77.	Filing of court orders, declarations or certificates	66
78.	Publication of certain court orders	66
79.	Change of language of proceedings	67

Section		Page
80.	Signature of documents by partnerships, corporations, etc.	67
81.	Translations of documents, etc.	67
82.	Service of documents	69

TRANSITIONAL

83.	Pending applications for registration	70
84.	Form for conversion of pending application	70
Schedule 1	Fees	71
Schedule 2	Classification of goods	72
Schedule 3	Classification of goods and services	76

TRADE MARKS RULES

(Made under section 90 of the Trade Marks Ordinance () of 2000) with the consent of the Financial Secretary as to the fees specified in Schedule 1)

PRELIMINARY

1. Commencement

These Rules shall come into operation on the day appointed for the commencement of section 90 of the Trade Marks Ordinance () of 2000).

2. Interpretation

(1) In these Rules, unless the context otherwise requires -

“Nice Agreement” () means the Nice Agreement concerning the International Classification of Goods and Services for the purposes of the Registration of Marks, concluded at the Nice Diplomatic Conference on 15 June 1957, as revised at Stockholm on 14 July 1967 and at Geneva on 13 May 1977 and amended at Geneva on 28 September 1979, as revised or amended from time to time;

“send” () includes give;

“specification” () means the statement of the goods or services in respect of which a trade mark is registered or proposed to be registered.

(2) In these Rules, “old law” () and “commencement date” () have the same meaning as in section 1(1) of Schedule 3 to the Ordinance (transitional matters).

(3) In these Rules, except where otherwise provided -

(a) a reference to a section is a reference to that section in these Rules; and

(b) a reference to a Schedule is a reference to that Schedule in these Rules.

(4) In these Rules, a reference to an applicable fee is a reference to the fee applicable in accordance with section 5 and Schedule 1.

3. Forms and directions

(s. 72 of Ordinance)

(1) In these Rules, “specified form” (), in relation to any matter or proceeding, means the relevant form specified by the Registrar in connection with that matter or proceeding and published by notice in the official journal under section 72 of the Ordinance (power to require use of forms).

(2) A requirement under these Rules to use a specified form is satisfied by the use of either -

(a) a replica of the specified form; or

(b) a form acceptable to the Registrar,

that contains the information required by the specified form and complies with any directions of the Registrar as to the use of the specified form or replicas of it.

4. Filing of documents

(1) Unless the context otherwise requires, any reference in these Rules to the filing of an application, notice or other document shall be construed as a reference to its being delivered either by hand or by post to the Registrar at the Registry during the normal business hours of the Registry.

(2) The filing of an application, notice or other document shall be deemed to be effected at such time as the document is received by the Registrar at the Registry.

(3) The Registrar may at his discretion permit, as an alternative to the delivering of an application, notice or other document by hand or by post, the filing of the document by electronic means subject to such terms or conditions as the Registrar may specify either generally by notice published in the official journal or in any particular case by written notice to the person desiring to file the document by such means.

5. Fees

(1) The fees to be paid in relation to any matter or proceeding under the Ordinance or these Rules are those specified in Schedule 1.

(2) The fee to be paid in respect of a matter or proceeding shall be paid at the time specified in Schedule 1 in respect of that matter or proceeding.

(3) Fees shall be paid by such means and in such manner as the Registrar directs.

(4) Where a fee has been paid in error or a fee is paid in excess of the amount specified in Schedule 1, the Registrar

shall repay the amount paid in error or the excess amount accordingly.

6. Classification of goods and services

(s. 38 of Ordinance)

(1) Subject to subsection (2), for the purposes of a trade mark registered in respect of goods the date of registration of which is before 1 January 1955, the goods in respect of which the trade mark is registered are classified in accordance with Schedule 2.

(2) For the purposes of -

(a) a trade mark registered in respect of goods the date of registration of which is on or after 1 January 1955; or

(b) a trade mark registered in respect of goods the date of registration of which is before 1 January 1955 and in respect of which the specifications have been reclassified, whether under the old law or under section 38, to one founded on the classification of goods adopted under the Nice Agreement,

the goods in respect of which the trade mark is registered are classified in accordance with Part 1 of Schedule 3, which sets out the current version of the classification of goods adopted under the Nice Agreement.

(3) For the purposes of a trade mark registered in respect of services, the services in respect of which the trade mark is registered are classified in accordance with Part 2 of Schedule 3, which sets out the current version of

the classification of services adopted under the Nice Agreement.

GENERAL APPLICATION PROCEDURES

Application for registration

7. Filing of application

(s. 36 of Ordinance)

(1) An application for registration of a trade mark shall be made on the specified form.

(2) An application for registration of a three- dimensional trade mark shall not be treated as such unless the application contains a statement to that effect.

(3) A colour shall not be treated as an element of the trade mark unless the application specifies the colour and contains a statement claiming the colour as an element of the trade mark.

(4) An application to register a trade mark that consists of a word or of Roman letters or Chinese characters shall be treated as an application to register that word or those letters or characters in the graphical form shown in the application, unless the application contains a statement that the application is for registration of that word, or those letters or characters, without regard to their graphical form.

(5) The Registrar may require the applicant to furnish representations of the trade mark that are, in the Registrar's opinion, suitable for publication.

(6) The applicant shall file with his application an address for service in accordance with section 74.

8. Application shall specify class or classes

(1) Every application for registration of a trade mark shall specify the class or classes in Schedule 3 to which the application relates.

(2) An application may be made for registration in more than one class of Schedule 3.

(3) If the application relates to more than one class in Schedule 3, the specification contained in it shall set out the classes in consecutive numerical order and list under each class the goods or services appropriate to that class.

(4) If the specification contained in the application lists items by reference to a class in Schedule 3 under which the items do not fall, the applicant may request, by filing the specified form, that his application be amended to include the appropriate class for those items, and upon the payment of the applicable fee the Registrar shall amend his application accordingly.

9. Claim to priority

(s. 39 of Ordinance)

(1) Where a right to priority is claimed under section 39 of the Ordinance (claim to priority), the application for registration filed under these Rules shall include the following particulars in respect of each country, territory or area for which a right of priority is claimed, namely -

- (a) the name of that country, territory or area;
- (b) the application number assigned to the application filed in, or in respect of, that country, territory or area; and
- (c) the date of filing of that application.

(2) In addition, there shall be filed, either at the same time as, or within 3 months after, the filing of the application for registration under these Rules, a certificate issued by the registering or other competent authority of each country, territory or area for which a right of priority is claimed that certifies, or verifies to the satisfaction of the Registrar -

- (a) the name of that country, territory or area or the name of the registering or other competent authority;
- (b) the application number assigned to the application filed in, or in respect of, that country, territory or area;
- (c) the date of filing of that application;
- (d) the representation of the trade mark; and
- (e) the goods or services covered by that application.

10. Deficiencies in application

(s. 36 of Ordinance)

(1) If it appears to the Registrar that an application for registration of a trade mark does not satisfy the requirements of section 36 of the Ordinance (application for registration) or section 7 or 8(1) or (3) of these Rules, the

Registrar shall send written notice thereof to the applicant to remedy the deficiencies or, in the case of section 36(5) of the Ordinance, the default of payment of fees.

(2) If, within 2 months after the date of the notice, the applicant fails to remedy any deficiency notified to him in respect of section 36(1) or (2) (a) to (d) of the Ordinance or any default notified to him in respect of section 36(5) of the Ordinance, the application shall be deemed never to have been made.

(3) If, within 2 months after the date of the notice, the applicant fails to remedy any deficiency notified to him in respect of section 36(2) (e), (3) or (4) of the Ordinance or section 7 or 8(1) or (3) of these Rules, the application shall be treated as abandoned.

11. Failure to meet requirements for registration

(s. 40(3) & (4) of Ordinance)

(1) Where it appears to the Registrar that the requirements for registration under the Ordinance are not met, he shall notify the applicant in writing accordingly.

(2) The notice shall include a statement advising the applicant that he may make representations to the Registrar within 6 months after the date of the notice and that the application shall be refused if the applicant fails within that period -

- (a) to satisfy the Registrar that the requirements for registration are met; or
- (b) to amend his application so as to meet those requirements.

12. Publication of particulars of application

(s. 41 of Ordinance)

(1) Where the Registrar accepts an application for registration of a trade mark under section 40 of the Ordinance (examination of application) and notifies the applicant of his decision (the “notice of acceptance”), the applicant shall cause particulars of the application to be published in the official journal in accordance with the Registrar’s directions.

(2) If the applicant fails to comply with subsection (1) within 3 months after the date of the notice of acceptance, the Registrar may give notice to the applicant requesting compliance with subsection (1) (the “notice of compliance”) on such terms as the Registrar may specify in that notice.

(3) If the applicant fails to comply with the notice of compliance within 1 month after the date of that notice, the application shall be treated as abandoned.

Opposition proceedings

13. Filing of notice of opposition

(s. 42 of Ordinance)

(1) Notice of opposition to the registration of a trade mark shall be filed in duplicate on the specified form within 3 months after the date on which particulars of the application for registration are published under section 12.

(2) The notice of opposition shall include a statement of the grounds of opposition and, where the opposition is based on an earlier trade mark, shall also include -

(a) a representation of that earlier trade mark;

- (b) if it is registered, a statement indicating the classes and the goods and services in respect of which it is registered;
- (c) if it is not registered, a statement indicating the goods and services in respect of which it is used; and
- (d) if it is an earlier trade mark by virtue of section 5(1) (a) of the Ordinance (meaning of “earlier trade mark”), a statement indicating the application or registration numbers of the trade mark and, where applicable, the number of the publication in which the application or registration or particulars of the application or registration have been published.

(3) The Registrar shall send the duplicate copy of the notice of opposition to the applicant.

(4) A notice of opposition may be amended on such terms as the Registrar thinks fit.

14. Filing of counter-statement

(1) Subject to subsections (2) and (3), within 3 months after the date on which he receives the duplicate copy of the notice of opposition, the applicant shall file in duplicate a counter-statement on the specified form, setting out the grounds on which he relies as supporting his application and the facts, if any, alleged in the notice of opposition that he admits.

(2) At any time before the expiry of the period specified in subsection (1) for the filing of the counter-

statement, the Registrar may with the written agreement of both the applicant and the opposing party grant an extension of 3 months to that period (the “cooling-off period”); the Registrar may with the written agreement of both the applicant and the opposing party grant an extension to the cooling-off period of a further 3 months.

(3) Where the Registrar grants an extension under subsection (2), the applicant shall file the counter-statement referred to in subsection (1) within 1 month after the expiry of the cooling-off period.

(4) The Registrar shall send the duplicate copy of the counter-statement to the person opposing the registration.

(5) Where the applicant does not file a counter-statement within the period specified by subsection (1) or (3), as appropriate, he shall be deemed to have abandoned his application for registration.

(6) A counter-statement may be amended on such terms as the Registrar thinks fit.

15. Filing of evidence

(1) Within 6 months after the date on which he receives the duplicate copy of the counter-statement, the person opposing the registration shall file such evidence by way of statutory declaration or affidavit as he may consider necessary to adduce in support of his opposition; and he shall send a copy of that evidence to the applicant.

(2) If the person opposing the registration files no evidence under subsection (1), he shall be deemed to have

abandoned his opposition unless the Registrar otherwise directs.

(3) If the person opposing the registration files evidence under subsection (1) or the Registrar otherwise directs under subsection (2), the applicant shall, within 6 months after the date on which he receives a copy of the evidence or a copy of the direction, as appropriate, file such evidence by way of statutory declaration or affidavit as he may consider necessary to adduce in support of his application; and he shall send a copy of that evidence to the person opposing the registration.

(4) Within 6 months after the date on which he receives a copy of the applicant's evidence, the person opposing the registration may file evidence in reply by statutory declaration or affidavit, which shall be confined to matters strictly in reply to the applicant's evidence, and he shall send a copy of that evidence to the applicant.

(5) No further evidence may be filed except by leave of the Registrar, which leave may be granted on such terms as the Registrar thinks fit.

16. Hearing

(1) On completion of the filing of evidence under section 15, the Registrar shall, if a hearing is requested by any party to the proceedings, send to the parties notice of a date for the hearing; within 14 days after the date of receipt of the notice any party who intends to be heard shall give notice by filing the specified form; and any party who does

not do so may be treated as not desiring to be heard, and the Registrar may act accordingly.

(2) If a copy of any exhibits under a statutory declaration or affidavit filed under section 15 cannot conveniently be sent, the original of the exhibits shall be filed with the Registrar in order that they may be open to inspection by the other party.

(3) The original of the exhibits referred to in subsection (2) shall be produced at the hearing unless the Registrar otherwise directs.

17. Directions on procedure

(1) The Registrar may, at the request of a party to the opposition proceedings or on his own initiative, give a direction in relation to the procedure in those proceedings.

(2) A direction given under subsection (1) must not be inconsistent with these Rules.

(3) The Registrar shall not give a direction under subsection (1) unless he -

(a) is reasonably satisfied that the parties to the proceedings have been notified of the proposed direction;

(b) has given the parties to the proceedings a reasonable opportunity to make representations concerning the proposed direction; and

(c) is reasonably satisfied that the proposed direction is appropriate.

(4) For the purposes of subsection (3) (b), the representations may be made in writing or at a hearing or by such other means as the Registrar reasonably allows.

17A. Substitution of parties

(1) Where a party to the opposition proceedings is a body corporate or other legal entity and has been wound up or merged with or acquired by another body corporate or legal entity, any person claiming to have an interest in the proceedings may file an application on the specified form for leave to be substituted for that party, stating the nature of his interest, and the Registrar may, after hearing the parties concerned if so required, refuse such leave or grant leave upon such terms and conditions as he thinks fit.

(2) Any person granted leave under subsection (1) shall, subject to any terms and conditions imposed under that subsection, be treated as a party to the opposition proceedings.

18. Decision of Registrar in opposition proceedings

(1) When the Registrar has made a decision on the acceptability of an application for registration following the procedure under sections 13 to 17A, he shall send the applicant and the person opposing the registration written notice of it, stating the reasons for his decision.

(2) For the purpose of any appeal against the Registrar's decision, the date when notice of the decision is sent under subsection (1) shall be deemed to be the date of the decision.

Amendment, division and merger of applications

19. Amendment of application*(s. 44 of Ordinance)*

A request pursuant to section 44 of the Ordinance (amendment of application) to amend an application for the registration of a trade mark shall be made on the specified form.

20. Amendment of application after publication

(s. 44 of Ordinance)

(1) This section applies where, pursuant to section 44 of the Ordinance (amendment of application), a request is made to amend an application for registration of a trade mark the particulars of which application have been published under section 12 of these Rules.

(2) If the amendment affects the representation of the trade mark, the applicant shall cause the amendment or a statement of the effect of the amendment to be published in the official journal.

(3) If the amendment affects the goods or services covered by the application, the applicant shall cause the amendment or a statement of the effect of the amendment to be published in the official journal if directed to do so by the Registrar.

(4) The Registrar may at any time require the applicant to cause the amendment or statement to be re-published in the official journal, in accordance with the Registrar's

directions, if he is satisfied, having regard to the effect of the proposed amendment, that it is just to do so.

(5) Notice of opposition to the amendment shall be filed in duplicate on the specified form within 1 month after the date on which the application as amended, or the statement of its effect, is published under this section; the notice shall include a statement of the grounds of opposition and, in particular, explain how the amendment would be contrary to section 44 of the Ordinance (amendment of application).

(6) Sections 14 to 18 shall apply to proceedings relating to the opposition to the amendment of the application as they apply to proceedings relating to opposition to the registration of a trade mark.

(7) A notice of opposition filed under this section may be amended on such terms as the Registrar thinks fit.

21. Division of application

(s. 49 of Ordinance)

(1) At any time after an application for registration of a trade mark has been assigned a filing date under section 37 of the Ordinance (filing date) and before the registration of the trade mark, the applicant may file a request on the specified form for a division of his application (the “original application”) into 2 or more separate applications (“divisional applications”), each of which claims the same protection under the Ordinance as the original application (for example, for protection as a defensive mark), indicating for each divisional application the specification of goods or services covered by the application.

(2) Each divisional application shall be treated as a separate application for registration with the same filing date as the original application.

(3) Where the request for a division is filed after particulars of the original application are published under section 12, any notice of opposition filed under section 13 in relation to the original application shall be deemed to have been filed in relation to each divisional application and the opposition proceedings shall proceed accordingly.

(4) On division of an original application in respect of which notice has been received by the Registrar of particulars relating to the grant of a licence or a security interest or any right in or under the application, the notice and the particulars shall be deemed to apply in relation to each of the divisional applications.

22. Merger of separate applications

(s. 49 of Ordinance)

(1) An applicant who has filed separate applications for registration of a trade mark, each of which claims the same protection under the Ordinance, may at any time before particulars of any of those applications have been published under section 12, file a request on the specified form to merge those applications into a single application.

(2) The Registrar shall merge the applications that are the subject of the request into a single application if he is satisfied that all of the applications -

(a) are in respect of the same trade mark;

- (b) claim the same protection under the Ordinance (for example, for protection as a defensive mark);
- (c) bear the same filing date; and
- (d) are, at the time of the request, in the name of the same person.

REGISTRATION

23. Registration

(s. 45(1) of Ordinance)

The Registrar shall register a trade mark under section 45(1) of the Ordinance (registration) by entering the following particulars in the register -

- (a) the date of registration as determined in accordance with section 46 of the Ordinance (date of registration), that is to say, the filing date of the application for registration;
- (b) the actual date of registration, that is to say, the date of the entry in the register of the particulars required to be entered under this section;
- (c) the date of priority (if any) to be accorded pursuant to a claim to a right to priority made under section 39 of the Ordinance (claim to priority);
- (d) the name and address of the owner;
- (e) the address for service (if any) as furnished or filed pursuant to section 74 of these Rules;

- (f) (f) any disclaimer, limitation or condition under section 14(1) (a) or (b) of the Ordinance (disclaimers, limitations and conditions);
- (g) any memorandum or statement of the effect of any memorandum relating to the trade mark of which the Registrar has been notified on the specified form;
- (h) the classes and description of goods or services in Schedule 2 in respect of which the trade mark is registered;
- (i) where a colour is claimed as an element of the trade mark in accordance with section 7(3) of these Rules, that fact and the colour or colours so claimed;
- (j) where the trade mark consists wholly or in part of a sound, shape or smell, that fact;
- (k) where the trade mark is a defensive trade mark, a collective mark or a certification mark, that fact;
- (l) where the trade mark is registered pursuant to section 11(8) of the Ordinance (relative grounds for refusal of registration) with the consent of the owner of an earlier trade mark or other earlier right, that fact; and
- (m) a representation of the trade mark.

24. Publication of registration

(s. 45(3) of Ordinance)

On the registration of a trade mark, the Registrar shall cause notice of the registration to be published in the official journal, specifying the date of registration.

25. Renewal of registration

(s. 48(1) of Ordinance)

Renewal of the registration of a trade mark shall be effected by filing a request for renewal on the specified form at any time within the period of 6 months ending on the date of the expiration of the registration.

26. Reminder of renewal of registration

(s. 48(2) of Ordinance)

(1) Subject to subsection (2), at any time not earlier than 6 months nor later than 1 month before the expiration of the last registration of a trade mark, the Registrar shall (except where renewal has already been effected) send to the registered owner a notice of the approaching expiration and inform him at the same time that the registration may be renewed in the manner described in section 25.

(2) If it appears to the Registrar that a trade mark may be registered under section 45 of the Ordinance (registration) at any time within 6 months before the date on which the renewal would be due (by reference to the date of application for registration), the Registrar shall be taken to have complied with subsection (1) if he sends the notice to the applicant within 1 month after the date of actual registration.

27. Delayed renewal and removal of registration

(s. 48(3) & (5) of Ordinance)

(1) Subject to subsection (2), if on the expiration of the last registration of a trade mark, the applicable fee payable on renewal has not been paid, the Registrar shall publish that fact in the official journal; and if, within 6 months after the date of the expiration of the last registration, the request for renewal is filed on the specified form and is accompanied by that fee and any other applicable fee, the Registrar shall renew the registration without removing the trade mark from the register.

(2) Where a trade mark is due to be registered after the date on which it is due for renewal (by reference to the date of application for registration), the request for renewal shall be filed together with the applicable fee payable on renewal and any other applicable fee within 6 months after the date of actual registration.

(3) Where the fees payable under subsection (1) or (2) are not paid within the period specified in that subsection, the Registrar shall, subject to section 28, remove the trade mark from the register.

(4) The Registrar shall publish a notice of the removal of the trade mark from the register in the official journal.

28. Restoration of registration

(s. 48(6) of Ordinance)

(1) Where the Registrar has removed the registration of a trade mark from the register in accordance with section 27(3), he may, on a request filed on the specified form within 6 months after the date of the removal and accompanied by the applicable fee, restore the trade mark to the register and renew its registration if, having regard to the circumstances of the failure to renew, he is satisfied that it is just to do so.

(2) The Registrar shall publish a notice of the restoration of the registration and of the date of restoration in the official journal.

DISCLAIMERS, LIMITATIONS AND CONDITIONS

29. Registration subject to disclaimer, limitation

or condition

(s. 14(1) of Ordinance)

(1) An applicant for registration of a trade mark or the owner of a registered trade mark may, by filing a notice in writing -

(a) disclaim any right to the exclusive use of any specified element of the trade mark; or

(b) agree that the rights conferred by the registration shall be subject to a specified territorial or other limitation or condition.

(2) On receipt of a notice under subsection (1) relating to a registered trade mark, the Registrar shall make the appropriate entry in the register.

(3) An applicant or owner who files a notice under subsection (1) shall cause particulars of the disclaimer, limitation or condition to be published in the official journal in accordance with the Registrar's directions.

ALTERATION, MERGER AND SURRENDER OF REGISTRATION

30. Alteration of registered trade mark

(s. 53 of Ordinance)

(1) The owner of a registered trade mark may, by filing the specified form, request the Registrar to make such alteration of the trade mark as is permitted under section 53 of the Ordinance (alteration of registered trade mark).

(2) The Registrar may require the applicant to file evidence by statutory declaration or otherwise as to the circumstances in which the application is made.

(3) Where the Registrar proposes to allow the alteration of the trade mark, he shall publish the trade mark, as altered, in the official journal.

(4) Any person claiming to be affected by the alteration may within 3 months after the date of publication under subsection (3) file in duplicate a notice of opposition to the alteration on the specified form together with a statement of the grounds of opposition.

(5) The Registrar shall send the duplicate copy of the notice of opposition and statement to the owner and thereafter the procedure in sections 14 to 18 shall apply.

(6) A notice of opposition filed under this section may be amended on such terms as the Registrar thinks fit.

31. Merger of separate registrations

(s. 49 of Ordinance)

(1) The owner of 2 or more registrations of a trade mark may file a request on the specified form to merge them into a single registration.

(2) The Registrar shall, if he is satisfied that the registrations are in respect of the same trade mark and that each registration provides the same protection under the Ordinance, merge them into a single registration.

(3) Where any registration of a trade mark to be merged under subsection (1) is subject to a disclaimer, limitation or condition, the merged registration shall be subject to the same disclaimer, limitation or condition.

(4) Where 2 or more registrations are merged, the Registrar shall enter in the register in relation to the merged registration the same particulars as were registered in relation to each of the original registrations.

(5) Where the separate registrations bear different dates of registration, the date of registration of the merged registration shall be the latest of those dates.

32. Surrender of registered trade mark

(s. 54 of Ordinance)

(1) The owner of a registered trade mark may surrender the registration of the trade mark by filing a notice of surrender in the specified form.

(2) A notice under subsection (1) shall be of no effect unless the owner in that notice

-

(a) states that the registration is to be surrendered in respect of either -

(i) all of the goods or services for which the trade mark is registered;

or

(ii) those goods or services specified in the notice;

(b) gives the name and address of each other person having a registered interest in the trade mark; and

(c) certifies, in respect of every such person, that the person -

(i) has been sent not less than 3 months' notice of the owner's intention to surrender the registration; or

(ii) is not affected or, if affected, consents to the surrender.

(3) The surrender takes effect on receipt by the Registrar of a notice that complies with subsection (2).

(4) A surrender of the registration of a trade mark has the same effect in respect of the goods or services for which the registration is surrendered as the registration of the

trade mark ceasing to have effect in respect of those goods or services.

(5) The Registrar shall, on the surrender taking effect, make the appropriate entry in the register and publish notice of the surrender in the official journal.

REVOCATION, INVALIDATION AND VARIATION OF REGISTRATION

33. Revocation of registration (on grounds of non-use)

(s. 50(2) (a) & (b) of Ordinance)

(1) An application to the Registrar for the revocation of the registration of a trade mark under section 50(2) (a) or (b) of the Ordinance shall be made on the specified form and shall be filed in duplicate together with a statement in duplicate of the grounds on which the application is made.

(2) The Registrar shall send the duplicate copies of the application and statement to the owner.

(3) Within 3 months after the date on which he receives the duplicate copies of the application and statement, the owner may file in duplicate a counter-statement on the specified form together with either -

(a) two copies of evidence of use made of the trade mark; or

(b) two copies of a statement giving reasons for non-use.

(4) Where a counter-statement, and evidence of use or a statement giving reasons for non-use, are filed by the owner within the period prescribed by subsection (3), the Registrar

shall send the duplicate copy of the counter-statement and a copy of the evidence or statement to the applicant.

(5) Where a counter-statement, and evidence of use or a statement giving reasons for non-use, are not filed by the owner within the period prescribed by subsection (3), the Registrar may treat his opposition to the application as having been withdrawn.

(6) Within 3 months after the date on which he receives the duplicate copy of the counter-statement, the applicant may file such evidence as he may consider necessary to adduce in support of the grounds stated in his application; and he shall send a copy thereof to the owner.

(7) If the applicant files no evidence under subsection (6), he shall be deemed to have withdrawn his application unless the Registrar otherwise directs.

(8) If the applicant files evidence under subsection (6), or the Registrar otherwise directs under subsection (7), the owner who has filed a counter-statement under subsection (3) may, within 3 months after the date on which he receives either a copy of the evidence or a copy of the direction, file such further evidence as he may consider necessary to adduce in support of the reasons stated in the counter-statement; and the owner shall send a copy thereof to the applicant.

(9) Within 3 months after the date on which he receives the copy of the owner's evidence, the applicant may file evidence in reply, which shall be confined to matters strictly in reply to the owner's evidence; and the applicant shall send a copy thereof to the owner.

(10) No further evidence may be filed except with leave of the Registrar, which leave may be granted on such terms as the Registrar thinks fit.

(11) On completion of the filing of evidence, the Registrar shall request the parties to state by notice to him in writing whether they wish to be heard; and if any party requests to be heard the Registrar shall send to the parties notice of a date for the hearing.

(12) When the Registrar has made a decision on the application he shall send the parties to the proceedings written notice of it, stating the reasons for his decision; and for the purposes of any appeal against the Registrar's decision the date when the notice of the decision is sent shall be taken to be the date of the decision.

34. Revocation of registration (other than on grounds of non-use)

(s. 50(2) (c), (d) & (e) of Ordinance)

(1) An application to the Registrar for the revocation of the registration of a trade mark under section 50(2) (c), (d) or (e) of the Ordinance shall be made on the specified form and shall be filed in duplicate together with a statement in duplicate of the grounds on which the application is made.

(2) The Registrar shall send the duplicate copies of the application and statement to the owner.

(3) Within 3 months after the date on which he receives the duplicate copies of the application and statement, the owner may file in duplicate a counter-statement on the specified form.

(4) Where a counter-statement is filed by the owner within the period prescribed by subsection (3), the Registrar shall send the duplicate copy of the counter-statement to the applicant.

(5) Where a counter-statement is not filed by the owner within the period prescribed by subsection (3), the Registrar may treat his opposition to the application as having been withdrawn.

(6) Within 3 months after the date on which he receives the duplicate copy of the counter-statement, the applicant may file such evidence as he may consider necessary to adduce in support of the grounds stated in his application; and he shall send a copy thereof to the owner.

(7) If the applicant files no evidence under subsection (6), he shall be deemed to have withdrawn his application unless the Registrar otherwise directs.

(8) If the applicant files evidence under subsection (6), or the Registrar otherwise directs under subsection (7), the owner who has filed a counter-statement under subsection (3) may, within 3 months after the date on which he receives either a copy of the evidence or a copy of the direction, file such further evidence as he may consider necessary in support of the reasons stated in the counter-statement; and the owner shall send a copy thereof to the applicant.

(9) Within 3 months after the date on which he receives the copy of the owner's evidence, the applicant may file evidence in reply, which shall be confined to matters strictly in reply to the owner's evidence; and the applicant shall send a copy thereof to the owner.

(10) No further evidence may be filed except with leave of the Registrar, which leave may be granted on such terms as the Registrar thinks fit.

(11) On completion of the filing of evidence, the Registrar shall request the parties to state by notice to him in writing whether they wish to be heard; and if any party requests to be heard the Registrar shall send to the parties notice of a date for the hearing.

(12) When the Registrar has made a decision on the application he shall send the parties to the proceedings written notice of it, stating the reasons for his decision; and for the purposes of any appeal against the Registrar's decision the date when the notice of the decision is sent shall be taken to be the date of the decision.

35. Declaration of invalidity of registration

(s. 51 of Ordinance)

(1) An application to the Registrar for a declaration of invalidity of the registration of a trade mark under section 51 of the Ordinance shall be made on the specified form and shall be filed in duplicate together with a statement in duplicate of the grounds on which the application is made.

(2) The Registrar shall send the duplicate copies of the application and statement to the owner.

(3) Within 3 months after the date on which he receives the duplicate copies of the application and statement, the owner may file in duplicate a counter-statement on the specified form.

(4) Where a counter-statement is filed by the owner within the period prescribed by subsection (3), the Registrar shall send the duplicate copy of the counter-statement to the applicant.

(5) Where a counter-statement is not filed by the owner within the period prescribed by subsection (3), the Registrar may treat his opposition to the application as having been withdrawn.

(6) Within 3 months after the date on which he receives the duplicate copy of the counter-statement, the applicant may file such evidence as he may consider necessary to adduce in support of the grounds stated in his application; and he shall send a copy thereof to the owner.

(7) If the applicant files no evidence under subsection (6), he shall be deemed to have withdrawn his application unless the Registrar otherwise directs.

(8) If the applicant files evidence under subsection (6), or the Registrar otherwise directs under subsection (7), the owner who has filed a counter-statement under subsection (3) may, within 3 months after the date on which he receives either a copy of the evidence or a copy of the direction, file such further evidence as he may consider necessary in support of the reasons stated in the counter-statement; and the owner shall send a copy thereof to the applicant.

(9) Within 3 months after the date on which he receives the copy of the owner's evidence, the applicant may file evidence in reply, which shall be confined to matters strictly in reply to the owner's evidence; and the applicant shall send a copy thereof to the owner.

(10) No further evidence may be filed except with leave of the Registrar, which leave may be granted on such terms as the Registrar thinks fit.

(11) On completion of the filing of evidence, the Registrar shall request the parties to state by notice to him in writing whether they wish to be heard; and if any party requests to be heard the Registrar shall send to the parties notice of a date for the hearing.

(12) When the Registrar has made a decision on the application he shall send the parties to the proceedings written notice of it, stating the reasons for his decision; and for the purposes of any appeal against the Registrar's decision the date when the notice of the decision is sent shall be taken to be the date of the decision.

36. Variation of registration

(s. 52 of Ordinance)

(1) An application to the Registrar for the variation of the registration of a trade mark under section 52 of the Ordinance shall be made on the specified form and shall be filed in duplicate together with -

- (a) a statement in duplicate of the grounds on which the application is made; and
- (b) two copies of any evidence to support those grounds.

(2) Where an application is made under subsection (1) by a person other than the owner of the registered trade mark, the Registrar -

(a) shall send the duplicate copies of the application and statement, and a copy of any evidence filed, to the owner; and

(b) may give such direction as he thinks fit with regard to the filing of further evidence upon such terms as he may think fit.

(3) On completion of the filing of evidence the Registrar shall request the parties to state by notice to him in writing whether they wish to be heard; if any party requests to be heard the Registrar shall send to the parties notice of a date for the hearing.

(4) When the Registrar has made a decision on the application, he shall send the parties to the proceedings written notice of it, stating the reasons for his decision; and for the purposes of any appeal against the Registrar's decision the date when the notice of the decision is sent shall be taken to be the date of the decision.

37. Interventions

(1) Any person, other than the owner, claiming to have an interest in proceedings on an application under section 33, 34, 35 or 36 may file an application on the specified form for leave to intervene, stating the nature of his interest, and the Registrar may, after hearing the parties concerned if so required, refuse such leave or grant leave upon such terms and conditions (including any undertaking as to costs) as he thinks fit.

(2) Any person granted leave to intervene shall, subject to any terms and conditions imposed in respect of the

intervention, be treated as a party to the proceedings on the application under section 33, 34, 35 or 36, as the case may be.

37A. Substitution of parties

(1) Where a party to the proceedings on an application under section 33, 34, 35 or 36 is a body corporate or other legal entity and has been wound up or merged with or acquired by another body corporate or legal entity, any person claiming to have an interest in the proceedings may file an application on the specified form for leave to be substituted for that party, stating the nature of his interest, and the Registrar may, after hearing the parties concerned if so required, refuse such leave or grant leave upon such terms and conditions as he thinks fit.

(2) Any person granted leave under subsection (1) shall, subject to any terms and conditions imposed under that subsection, be treated as a party to the proceedings on the application under section 33, 34, 35 or 36, as the case may be.

CHANGE OF CLASSIFICATION OF GOODS OR SERVICES

38. Change of classification

(s. 56 of Ordinance)

(1) Subject to section 56(5) of the Ordinance (amendment of entries to accord with new classification, etc.), the Registrar may -

- (a) in order to reclassify the specification of a registered trade mark founded on Schedule 2 to one founded on Schedule 3, or

(b) consequent upon a revision or an amendment made to the classification of goods and services adopted under the Nice Agreement, make such amendments to entries on the register as he considers necessary for the purposes of reclassifying the specification of the registered trade mark.

(2) Before making any amendment to the register under subsection (1), the Registrar shall give the owner of the trade mark written notice of his proposals for amendment and shall at the same time advise him that -

- (a) he may make written objections to the proposals, within 3 months after the date of the notice, stating the grounds of his objections; and
- (b) if no written objections are received within the period specified, the Registrar will publish the proposals in the official journal and the owner will not be entitled to make any objections thereto upon such publication.

(3) If the owner makes no written objections within the period specified in subsection (2) (a) or at any time before the expiration of that period gives the Registrar written notice of his intention not to make any objections, the Registrar shall as soon as practicable after the expiration of that period or upon receipt of the notice publish the proposals in the official journal.

(4) Where the owner makes written objections within the period specified in subsection (2) (a), the Registrar shall, as soon as practicable after he has considered the objections,

publish the proposals or, where he has amended the proposals, publish the proposals, as amended, in the official journal.

39. Opposition to proposals

(s. 56 of Ordinance)

(1) Notice of opposition to any proposals published under section 38 shall be filed on the specified form within 3 months after the date of publication of the proposals, and there shall be stated in the notice the grounds of opposition and, in particular, how the proposed amendments would be contrary to section 56(5) of the Ordinance (amendment of entries to accord with new classification, etc.).

(2) The Registrar may require or admit evidence directed to the questions in issue and, if so requested by any person opposing the proposal, give that person an opportunity to be heard before deciding the matter.

(3) If no notice of opposition is filed under subsection (1) within the time specified, or where any opposition has been determined, the Registrar shall make the amendments as proposed and shall enter in the register the date on which they were made.

REGISTRABLE TRANSACTIONS

40. Application to register or give notice

of registrable transaction

(ss. 27 & 29 (3) of Ordinance)

(1) Subject to subsections (2) and (3), an application to which section 27 of the Ordinance (registration of transactions affecting registered trade mark) applies, or a notice to which section 29(3) of the Ordinance (application for registration of a trade mark as an object of property) applies, shall be made or given on the specified form.

(2) Where the transaction is an assignment, the application or notice shall be signed by or on behalf of the parties to the assignment, or be accompanied by such documentary evidence as suffices to establish the assignment.

(3) Where the transaction relates to -

- (a) a grant of a licence;
- (b) an amendment to, or termination of, a licence; or
- (c) the grant, amendment or termination of any security interest,

the application or notice shall be signed by or on behalf of the grantor of the licence or security interest; or be accompanied by such documentary evidence as suffices to establish the transaction.

(4) Where notice is given to the Registrar to register particulars of a transaction relating to an application for registration of a trade mark, the Registrar shall enter those

particulars in the register only upon registration of the trade mark.

41. Entry in register of particulars of

registrable transaction

(ss. 27 and 29(3) of Ordinance)

(1) The particulars which shall be entered in the register in connection with a registrable transaction relating to a registered trade mark or, subject to section 40(4), an application for the registration of a trade mark, are -

- (a) in the case of an assignment of a registered trade mark or an application for the registration of a trade mark, or of any right in the trade mark or application -
 - (i) the name and address of the assignee;
 - (ii) the date of the assignment; and
 - (iii) where the assignment is in respect of any right in the trade mark or application, a description of the right assigned;
- (b) in the case of the grant of a licence under a registered trade mark or an application for the registration of a trade mark -
 - (i) the name and address of the licensee;
 - (ii) where the licence is an exclusive licence, that fact;
 - (iii) where the licence is limited, a description of the limitation; and

- (iv) the duration of the licence if the same is or is ascertainable as a definite period;
- (c) in the case of the grant of any security interest over a registered trade mark or an application for the registration of a trade mark, or over any right in or under the trade mark or application -
 - (i) the name and address of the grantee;
 - (ii) the nature of the interest (whether fixed or floating); and
 - (iii) the extent of the security and the right in or under the trade mark or application secured;
- (d) in the case of the making by personal representatives of an assent in relation to a registered trade mark or an application for the registration of a trade mark, or in relation to any right in or under the trade mark or application -
 - (i) the name and address of the person in whom the trade mark or application, or any right in or under it, vests by virtue of the assent;
and
 - (ii) the date of the assent; and
- (e) in the case of an order of a court or other competent authority transferring a registered trade mark or an application for the registration of a trade mark, or transferring

any right in or under the trade mark or application -

- (i) the name and address of the transferee;
- (ii) the date of the order; and
- (iii) where the transfer is in respect of a right in the trade mark or application, a description of the right transferred.

(2) In each case, there shall be entered in the register the date on which the entry is made.

RECTIFICATION AND CORRECTION OF THE REGISTER

42. Application for rectification of the register

(s. 55 of Ordinance)

(1) An application to the Registrar for the rectification of an error or omission in the register under section 55 of the Ordinance shall be made on the specified form and shall be filed in duplicate together with -

- (a) a statement in duplicate of the grounds on which the application is made; and
- (b) two copies of any evidence to support those grounds.

(2) Where an application is made under subsection (1) by a person other than the owner of the registered trade mark, the Registrar -

(a) shall send the duplicate copies of the application and statement, and a copy of any evidence filed, to the owner; and

(b) may give such direction as he thinks fit with regard to the filing of further evidence upon such terms as he may think fit.

(3) On completion of the filing of evidence the Registrar shall request the parties to state by notice to him in writing whether they wish to be heard; if any party requests to be heard the Registrar shall send to the parties notice of a date for the hearing.

(4) When the Registrar has made a decision on the application, he shall send the parties to the proceedings written notice of it, stating the reasons for his decision; and for the purposes of any appeal against the Registrar's decision the date when the notice of the decision is sent shall be taken to be the date of the decision.

(5) Sections 37 and 37A shall apply to proceedings on an application under this section as it applies to proceedings on an application under section 33, 34, 35 or 36.

43. Request for change of name or address, etc.,

recorded in register

(s. 55(5) of Ordinance)

(1) The Registrar shall, on a request made on the specified form by -

(a) the owner of a registered trade mark;

(b) a licensee of a registered trade mark; or

(c) any person having an interest in or charge on a registered trade mark the particulars of which have been registered under section 41, enter any change in his name or address, or in any other particulars identifying such person, as recorded in the register.

(2) The Registrar may at any time, on request made on the specified form by any person who has furnished or filed an address for service under section 74 that is recorded in the register, change that address for service.

44. Correction of errors or omissions in register

(s. 55(6) of Ordinance)

(1) Where the Registrar proposes to correct any error or omission in any entry in the register under section 55(6) of the Ordinance, he shall send written notice of the proposed correction to any person who appears to him to be concerned.

(2) Any person to whom notice is sent under subsection (1) may, within 3 months after the date of the notice, make written objections to the proposed correction, stating the grounds of his objections.

(3) If no written objections are received within the 3-month period, the Registrar may proceed to make the proposed correction in the register.

(4) Where any person to whom notice is sent under subsection (1) makes written objections within the 3-month period, the Registrar shall consider the objections and shall, after giving that person an opportunity to be heard, either abandon the proposal (if he is satisfied that the objections

have merit) or correct the entry as proposed (if he is satisfied that the objections are without merit).

45. Removal of matter from register

(s. 55(7) of Ordinance)

(1) Where it appears to the Registrar that any matter in the register has ceased to have effect, before removing it from the register -

- (a) he may, where he considers it appropriate, publish notice of his intention to remove that matter in the official journal; and
- (b) he shall, where any person appears to him to be affected by the removal, send notice of his intention to that person.

(2) Where the Registrar publishes notice of his intention to remove a matter from the register, any person may, within 3 months after the date of publication, file a notice of opposition on the specified form, which shall be accompanied by a statement of the grounds of opposition.

(3) Where the Registrar sends any person notice of his intention to remove a matter from the register, that person may, within 3 months after the date the notice is sent, file in writing -

- (a) his objections to the removal, if any; or
- (b) a request to have his objections heard orally.

(4) Where such opposition or objections are made, section 52 shall apply.

(5) If the Registrar is satisfied, after considering any opposition and objections, that the matter has not ceased to have effect, he shall not remove it from the register.

(6) If no notice of opposition is filed under subsection (2) and no objections are made under subsection (3), or where any opposition and objections have been determined, the Registrar may, if he is satisfied that the matter or any part of it has ceased to have effect, remove the matter or that part of it from the register.

INSPECTION OF THE REGISTER AND FILED DOCUMENTS

46. Public inspection of register

(s. 66(1) of Ordinance)

(1) The register shall be open for public inspection at the Registry during the normal business hours of the Registry as published in accordance with section 75.

(2) The right to inspect the register is subject to the payment of the applicable fee.

47. Supply of certified copies, etc.

(s. 67(3) of Ordinance)

(1) The Registrar shall, on application by any person made on the specified form and on payment of the applicable fee, supply the person making the application with a certified copy or extract or uncertified copy or extract of any entry in the register.

(2) In this section, “certified” () means certified by the Registrar and sealed with the seal of the Registrar.

48. Inspection of documents

(1) Subject to subsections (2) to (4), the Registrar shall, on application by any person and on payment of the applicable fee, permit the following documents filed or kept at the Registry to be inspected, namely -

- (a) any application for registration of a trade mark, including any amendments made to it;
- (b) any notice given to the Registrar under section 40 to register particulars of a transaction relating to an application for registration of a trade mark;
- (c) any application for the revocation of a trade mark;
- (d) any application for a declaration of invalidity of the registration of a trade mark;
- (e) any application for the variation of the registration of a trade mark;
- (f) any application for the rectification of an error or omission in the register;
- (g) any notice of opposition;
- (h) any counter-statement;
- (i) any decision of the Registrar given in relation to -
 - (i) any application for registration of a trade mark;

- (ii) the registration of any trade mark;
 - (iii) any application for the revocation of the registration of a trade mark;
 - (iv) any application for a declaration of invalidity of the registration of a trade mark;
 - (v) any application for the variation of the registration of a trade mark;
 - (vi) any application for the rectification of an error or omission in the register; or
 - (vii) any opposition proceedings; and
- (j) any decision of the Registrar given in any interlocutory proceedings, whether inter-partes or exparte.

(2) The Registrar shall not be obliged to permit the inspection of any document mentioned in subsection (1) until he has completed all procedures that he is required or permitted to carry out under the Ordinance or these Rules in connection with that document.

(3) Nothing in subsection (1) shall be construed as imposing on the Registrar any duty of making available for inspection -

- (a) any document or information filed at or sent to or by the Registry before the commencement date; or
- (b) any document or information filed at or sent to or by the Registry after the commencement date

relating to an application for registration of a trade mark under the old law.

(4) Subsection (3) does not apply in relation to a notice of opposition or counter-statement.

REQUESTS FOR INFORMATION AND ADVICE

49. List of pending applications or registered trade marks

The Registrar shall furnish any person, on request made on the specified form and on payment of the applicable fee, with a list of the numbers and the class of -

- (a) all pending applications made by any person identified in the request; or
- (b) all registered trade marks that are owned by a registered owner identified in the request.

50. Official search of records for specified goods or services

(1) Any person may request the Registrar, by filing the specified form, to cause a search to be made in respect of goods or services specified in the form and classified in any one class of Schedule 3 to ascertain whether any trade mark is on record at the date of the search, and whether pending registration or registered, that resembles a trade mark of which a representation is affixed to the form.

(2) The form shall be filed together with 2 duplicates of the representation and the applicable fee.

(3) The Registrar shall cause such a search to be made and the person making the request to be sent the result thereof.

51. Preliminary advice by Registrar

(s. 70 of Ordinance)

(1) Any person who proposes to apply for the registration of a trade mark may, by filing the specified form, apply to the Registrar for advice as to whether the trade mark appears to the Registrar prima facie capable of distinguishing goods or services of one undertaking from those of other undertakings within the meaning of section 3(1) of the Ordinance (meaning of “trade mark”).

(2) Separate applications under subsection (1) shall be made in respect of goods or services comprised within different classes as set out in Schedule 3.

(3) An application for advice under subsection (1) shall contain a representation of the trade mark to be affixed on the form and be filed together with 2 duplicates of such representation.

(4) Where the Registrar gives notice of objection to an applicant for registration of a trade mark pursuant to section 70 of the Ordinance (power to give preliminary advice, etc.) and the applicant wishes to obtain repayment of any fees paid on the filing of the application, the applicant must file in writing a notice of withdrawal under section 43(1) of the Ordinance (withdrawal or restriction of application) within 3 months after the date of the Registrar’s notice of objection; otherwise the fees are not repayable.

PROCEEDINGS BEFORE REGISTRAR

Hearings

52. Hearings before Registrar

(1) Without prejudice to any rule of law or any provision of the Ordinance or these Rules requiring the Registrar to hear a party to proceedings before him, or to give such a party an opportunity to be heard, the Registrar shall, before taking any decision on any matter under the Ordinance or these Rules that is or may be adverse to any party to any proceedings before him, give that party an opportunity to be heard.

(2) The Registrar shall give the party at least 14 days' notice of the time when he may be heard unless he consents to shorter notice.

(3) If the party intends to be heard, he shall give notice of his intention by filing the specified form.

(4) A party may attend a hearing in person or by such means as the Registrar allows.

(5) A party may make representations in writing before or during a hearing.

(6) The Registrar may adjourn a hearing by notifying each party to the hearing accordingly.

(7) Subject to these Rules, the Registrar may give any direction that is reasonably necessary for the conduct of the hearing.

53. Registrar not required to hold hearings

in certain cases

- (1) The Registrar is not required to proceed to hear a matter if -
 - (a) the Registrar reasonably believes that no party wishes to be heard; or
 - (b) at least one of the following circumstances applies in relation to each party notified of the hearing under section 52(2) -
 - (i) the party has not indicated to the Registrar that he wishes to be heard;
 - (ii) the party has informed the Registrar that he does not wish to be heard; or
 - (iii) the party does not attend the hearing.
- (2) The Registrar may decide a matter referred to in subsection (1) -
 - (a) without a hearing; and
 - (b) by reference to relevant information concerning the matter that is held in the Registry.

54. Hearings to be public

The hearing before the Registrar of any dispute between 2 or more parties relating to any matter in connection with a registered trade mark or an application for registration of a trade mark shall be held in public unless the Registrar, after consultation with those parties who attend in person or are represented at the hearing, otherwise directs.

55. Language of hearings

(1) Any party in a hearing before the Registrar, or any witness or expert called to give evidence by such party, may use a language other than the language of the proceedings on condition that, at least 10 days before the date laid down for the hearing, the party gives to the Registrar and to the other parties notice of his intention to use, or to call a witness or expert who intends to use, a language other than the language of the proceedings.

(2) The Registrar -

- (a) may require a party who gives notice under subsection (1) to make provision for interpretation into the language of the proceedings; and
- (b) may authorize interpretation into one of the official languages and may give directions as to who should bear the expenses thereof.

Evidence

56. Evidence in proceedings before Registrar

(1) Where under the Ordinance or these Rules evidence may be admitted by the Registrar in any proceedings before him, the evidence shall be filed by way of a statutory declaration or affidavit.

(2) The Registrar may in any particular case take oral evidence in lieu of or in addition to such evidence and shall, unless he otherwise directs, allow any witness to be cross-

examined on his statutory declaration, affidavit or oral evidence.

57. Statutory declarations and affidavits

(1) For the purposes of any proceedings before the Registrar, a statutory declaration or affidavit shall be made and subscribed as follows -

- (a) in Hong Kong, before any commissioner, notary, or other person authorized by the law of Hong Kong to administer an oath for the purpose of any legal proceeding; and
- (b) in any place outside Hong Kong, before any court, judge, justice of the peace, notary, notary public or other person authorized by law to administer an oath or to exercise notarial functions in that place for the purpose of any legal proceeding.

(2) A person signing a declaration by virtue of the provisions of section 80 shall state thereon the capacity in which he makes the declaration.

(3) Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorized by subsection (1) to take a declaration or affidavit may be admitted by the Registrar without proof of the genuineness of the seal or signature, or of the official character of the person or his authority to take the declaration or affidavit.

**58. Registrar's power to require documents,
information or evidence**

At any stage of any proceedings before him, the Registrar may direct that such documents, information or evidence as he may reasonably require shall be filed within such period as he may specify.

Costs

59. Security for costs

(1) If a party in any proceedings before the Registrar who neither resides nor carries on business in Hong Kong files -

- (a) a notice of opposition under section 13; or
- (b) an application under section 33, 34, 35, 36, 37, 37A or 42,

the Registrar may require him to give security for the costs in such form and in such amount as the Registrar considers sufficient.

(2) If the Registrar requires security to be given by any party in respect of a notice of opposition or an application filed by him and that party fails to give security as required, the Registrar may treat the notice of opposition or application as abandoned.

(3) The Registrar may at any stage in the proceedings require further security to be given at any time before giving his decision in the case.

(4) This section is without prejudice to the Registrar's power under section 37(1) to require an undertaking as to costs.

60. Taxation of costs

The Registrar shall have the power to tax any costs awarded by him under section 86 of the Ordinance (costs of proceedings before Registrar).

Case management conference and pre-hearing review

61. Case management conference

At any stage of any proceedings before him, the Registrar may direct that the parties to the proceedings attend a case management conference where they shall have an opportunity to be heard with regard to the future conduct of the proceedings, and in particular with regard to the proposed exercise of any of the Registrar's powers under these Rules. The Registrar shall give the parties at least 14 days' notice of the date of the case management conference.

62. Pre-hearing review

Before hearing any party that desires to be heard in any proceedings before him, the Registrar may direct that the parties to the proceedings attend a pre-hearing review at which he may give such directions as to the conduct of the hearing as he may think fit. The Registrar shall give the parties at least 7 days' notice of the date of the pre-hearing review.

Decision of Registrar

63. Decision of Registrar

(1) When the Registrar has made a decision in any proceedings before him, he shall send written notice of it to each party to the proceedings.

(2) Subject to subsection (3), for the purpose of any appeal against a decision made by the Registrar, the date on which the notice is sent under subsection (1) shall be deemed to be the date of the decision.

(3) Where a statement of the reasons for the decision is not included in the notice sent under subsection (1), any party may, within 1 month after the date on which the notice was sent to him, request the Registrar on the specified form to send him a statement of the reasons for the decision and upon such request the Registrar shall send such a statement; and the date on which that statement is sent shall be deemed to be the date of the Registrar's decision for the purpose of any appeal against it.

(4) This section does not apply to decisions to which section 18 applies.

AMENDMENT OF DOCUMENTS, RECTIFICATION OF IRREGULARITIES

AND EXTENSION AND ALTERATION OF TIME LIMITS

64. Amendments of documents and rectification of irregularities

Subject to section 65, any document filed with the Registrar may, if the Registrar thinks fit, be amended, and any irregularity in procedure in or before the Registry may be

rectified, on such terms as the Registrar may direct.

65. Extension and alteration of time limits

(1) Any time or period -

(a) prescribed by these Rules, other than a time or period prescribed by the sections mentioned in subsection (3), or

(b) specified by the Registrar for doing any act or taking any proceedings,

may, at the request of the person or party concerned made on the specified form, be extended by the Registrar as he thinks fit and upon such terms as he may direct.

(2) Where a request for the extension of a time or periods is sought in respect of a time or periods prescribed by sections 15, 20, 30, 33, 34, 35, 36, 42, 71 or 81(7), the party seeking the extension shall send a copy of the request to every other party to the proceedings.

(3) The sections of these Rules excepted from subsection (1) are -

(a) section 10 (deficiencies in application);

(b) section 13 (1) (time for filing opposition);

(c) section 14 (1) and (3) (time for filing counter -statement);

(d) section 14 (2) (cooling-off period);

(e) section 27 (delayed renewal);

(f) section 28 (restoration of registration);

(g) section 51 (4) (time for filing notice of withdrawal);

(h) section 74(7) (failure to file address for service); and

(i) section 83 (pending applications for registration).

(4) A request under subsection (1) may be made before or after the time or period in question has expired.

(5) Where -

(a) the period within which any party to any proceedings before the Registrar may file evidence under these Rules is to begin on the expiry of any period during which any other party may file evidence; and

(b) the other party notifies the Registrar that he does not wish to file any, or any further, evidence,

the Registrar may direct that the period within which the party mentioned in paragraph (a) may file evidence shall begin on such date as may be specified in the direction and shall notify all parties to the dispute of that date.

(6) Notwithstanding subsections (1) to (5), in the case of an irregularity or prospective irregularity in procedure in or before the Registry or the Registrar -

(a) that consists of a failure to comply with any limitation as to times or periods specified in the Ordinance or these Rules and that has occurred or appears to the Registrar as likely to occur in the absence of a direction under this section;

(b) that is attributable wholly or in part to an error, default or omission on the part of the Registry or the Registrar; and

(c) that appears to the Registrar should be rectified,

the Registrar may direct that the time or period in question shall be altered, on such terms as he may direct.

66. Extension of time limits in case of interruption in Registry's operations

(1) Where, on any day, there is an event or circumstances causing an interruption in the normal operation of the Registry, the Registrar may notify the day as being one on which there is an "interruption" and, where any period of time specified in the Ordinance or these Rules for the giving, making or filing of any notice, application or other document expires on a day so notified the period shall be extended to the first day next following (not being an excluded day) that is not so notified.

(2) Any notification of the Registrar given pursuant to this section shall be posted in the Registry.

(3) In this section, "excluded day" () means a day that is not a business day of the Registry under the Registrar's direction pursuant to section 88 of the Ordinance (hours of business and business days), as published in accordance with section 75 of these Rules.

SERIES' TRADE MARKS, DEFENSIVE TRADE MARKS
COLLECTIVE MARKS AND CERTIFICATION MARKS

67. Application for registration of series of trade

marks

(s. 49 of Ordinance)

(1) The owner of a series of trade marks may file an application on the specified form to register them as a series in a single registration, and there shall be included in any such application a representation of each trade mark claimed to be in the series.

(2) The Registrar shall accept an application filed under subsection (1) if he is satisfied that -

(a) the trade marks in respect of which the application is made constitute a series;
and

(b) the application meets the requirements of section 36 of the Ordinance (application for registration) and section 7 or 8(1) or (3) of these Rules.

(3) At any time before registration, an applicant under subsection (1) may file a request on the specified form for a division of his application into separate applications in respect of one or more of the trade marks in the series.

(4) Where a request is filed under subsection (3) and the Registrar he is satisfied that the division conforms with section 49(3) of the Ordinance (division, merger and registration of series) and section 21 of these Rules, he shall divide the application accordingly.

(5) The division of an application into two or more applications under this section shall be subject to the payment of the applicable fees.

(6) The provisions of section 21(2) to (4) shall apply to the division of an application under this section.

68. Deletion of trade mark in series

(1) The applicant for registration of a series of trade marks or the owner of a registered series of trade marks may at any time file a request for the deletion of a trade mark in that series.

(2) Where a request is filed under subsection (1), the Registrar shall delete the trade mark from the application or the registration, as the case may require.

69. Application for registration of

defensive trade mark

(1) An application for the registration of a defensive trade mark under section 58 of the Ordinance (defensive trade marks) shall be filed on the specified form and shall be accompanied by a statement of case setting forth full particulars of the facts on which the applicant relies in support of his application, verified by a statutory declaration made by the applicant or some other person approved for the purpose by the Registrar.

(2) The applicant shall file the statutory declaration within 9 months after the filing of the application, failing which the Registrar may treat the application as abandoned.

(3) The applicant may file with the statutory declaration, or within such time as the Registrar may allow, such other evidence as he may desire, whether after request made by the Registrar or otherwise, and the Registrar shall consider the whole of the evidence before deciding on the application.

70. Filing of regulations for collective marks

and certification marks

(Schs. 1 & 2 of Ordinance)

An applicant for registration of a collective mark or certification mark shall file a copy of the regulations governing the use of the mark, together with the specified form, within 9 months after the date of the application for registration.

71. Amendment of regulations of collective marks

and certification marks

(Schs. 1 & 2 of Ordinance)

(1) An application by the owner of a registered collective mark or registered certification mark for the amendment of the regulations governing the use of the mark shall be filed on the specified form.

(2) Where it appears expedient to the Registrar that the amended regulations should be made available to the public, he shall publish a notice in the official journal indicating where copies of the amended regulations may be inspected.

(3) Any person may, within 3 months after the date of publication of the notice, file in duplicate a notice of

opposition to the amendment on the specified form, which shall be accompanied by a statement in duplicate of the grounds of opposition indicating why the amended regulations do not comply with the requirements of section 6(1) and (2) of Schedule 1 to the Ordinance (collective marks) or section 7(1) and (2) of Schedule 2 to the Ordinance (certification marks), as the case may be.

(4) The Registrar shall send the duplicate copy of the notice of opposition and the statement to the owner and thereafter the procedure in section 14 to 18 shall apply.

AGENTS

72. Proof of authorization of agent may be required

(s. 87 of Ordinance)

(1) Where a person has been authorized to act as an agent in accordance with section 87 of the Ordinance (recognition of agents), the Registrar may in any particular case require the personal signature or presence of the agent or the person authorizing him to act as agent.

(2) Where, after a person has become a party to proceedings before the Registrar, the person appoints an agent for the first time or appoints one agent in substitution for another, the newly appointed agent shall file the specified form.

(3) No act required or authorized by the Ordinance or these Rules in connection with the registration of a trade mark or any procedure relating to a trade mark may be done by

or to the newly appointed agent before the date on which he files the specified form.

(4) The Registrar may by notice in writing sent to an agent require him to produce evidence of his authority.

73. Registrar may refuse to deal with certain agents

(s. 87(2) of Ordinance)

The Registrar may refuse to recognize as agent in respect of any business under the Ordinance or these Rules -

- (a) a person who has been convicted of a criminal offence;
- (b) a person whose name has been struck off the roll of barristers or roll of solicitors kept under and in accordance with the Legal Practitioners Ordinance (Cap. 159) or any person who has been suspended from acting as a barrister or solicitor; or
- (c) a partnership or body corporate of which one of the partners or directors is a person whom the Registrar could refuse to recognize as an agent under paragraph (a) or (b).

ADDRESS FOR SERVICE

74. Address for service

- (1) An address for service in Hong Kong shall be filed on the specified form by -

- (a) every applicant for the registration of a trade mark;
- (b) every person opposing an application for registration of a trade mark;
- (c) every person applying to the Registrar under section 33, 34, 35, 36, 37, 37A or 42;
- (d) every person granted leave under section 37(1) or 37A(1); and
- (e) every owner of a registered trade mark that is the subject of an application to the Registrar referred to in paragraph (c).

(2) The address for service of an applicant for registration of a trade mark shall upon registration of the trade mark be deemed to be the address for service of the registered owner, subject to any filing to the contrary under subsection (1) or section 43(2).

(3) In any case in which an address for service is filed at the same time as the filing of a form that requires the furnishing of an address for service, the address shall be filed on that form, and in any other case it shall be filed on the specified form.

(4) Anything sent to an applicant, opponent, intervener or registered owner at his address for service shall be deemed to be properly sent.

(5) The Registrar may, where no address for service is filed, treat as the address for service of the person concerned his trade or business address in Hong Kong, if any.

(6) An address for service in Hong Kong may be filed at any time by the owner of a registered trade mark and by any

person having an interest in or charge on a registered trade mark the particulars of which have been registered under section 41.

(7) Where an address for service is not filed as required by subsection (1), the Registrar shall send the person concerned notice to file an address for service within 2 months after the date of the notice and if that person fails to do so -

- (a) in the case of an applicant as is referred to in subsection (1) (a) or (c), the application shall be treated as abandoned;
- (b) in the case of a person as is referred to in subsection (1) (b) or (d), he shall be deemed to have withdrawn from the proceedings; and
- (c) in the case of the owner referred to in subsection (1) (e), he shall not be permitted to take part in any proceedings.

MISCELLANEOUS MATTERS

75. Directions on hours of business

and business days

(s. 88 of Ordinance)

Any directions given by the Registrar under section 88 of the Ordinance specifying the hours of business or business days of the Registry shall be posted in the Registry and published in the official journal.

76. Publication and sale of documents

The Registrar may arrange for the publication and sale of documents and information by the Registry on such terms as he thinks fit.

77. Filing of court orders, declarations

or certificates

(1) Where any order or declaration is made or any certificate is granted by the court under the Ordinance, the person in whose favour such order, declaration or certificate has been made or granted or, if there is more than one, such one of them as the Registrar may direct, shall file a certified copy of the order, declaration or certificate with the Registrar and, if rectification of the register is required, the specified form.

(2) Where appropriate, the register shall be rectified by the Registrar accordingly.

78. Publication of certain court orders

Whenever an order is made by the court under the Ordinance for the rectification or correction of the register, the Registrar may, if he thinks that the order should be made public, cause it to be published in the official journal by and at the expense of the person in whose favour the order has been made, or such one of them, if more than one, as the Registrar may direct.

79. Change of language of proceedings

The Registrar may, subject to the consent of the parties concerned, give directions relating to the change of the language of proceedings on such terms as he may direct.

80. Signature of documents by partnerships, corporations, etc.

(1) A document signed for or on behalf of a firm shall be signed by its partners, by any partner stating that he signs on behalf of the firm or by any other person who satisfies the Registrar that he is authorized to sign the document.

(2) A document signed for or on behalf of a body corporate shall be signed by a director or 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.

(3) A document signed for or on behalf of an unincorporated body or association of persons other than a firm may be signed by a director, manager, secretary or other similar officer of that body or association, or by any person who satisfies the Registrar that he is authorized to sign the document.

81. Translations of documents, etc.

(s. 75 of Ordinance)

(1) Except as expressly provided in these Rules, where any document or part of a document that is not in one of the official languages is filed at the Registry or delivered to

the Registrar at the Registry in pursuance of the Ordinance or these Rules, it shall be accompanied by a translation into the language of the proceedings and such translation must be verified to the satisfaction of the Registrar as corresponding to the original text.

(2) The Registrar may, in respect of any document to be used for the purposes of evidence in proceedings before the Registrar and that is in a language other than the language of the proceedings, give directions as to -

- (a) the filing of the document in that other language; and
- (b) the filing of a translation of the document into the language of the proceedings.

(3) Where a person is required by the Ordinance or these Rules to furnish his name on any application, notice or other document and his name is not in the Roman alphabet, the document shall contain a transliteration of the name in the Roman alphabet.

(4) In the case of an application for registration of a trade mark where the trade mark consists of or contains a word that is neither in the Roman alphabet nor in Chinese characters, there shall, unless the Registrar otherwise directs, be endorsed on the application a sufficient transliteration and translation to the satisfaction of the Registrar of that word, and every such endorsement shall state the language to which that word belongs and shall be signed by the applicant or his agent.

(5) In the case of an application for registration of a trade mark where the trade mark consists of or contains a word

in a language other than English or Chinese, the Registrar may require the applicant to file an exact translation of that word into English or Chinese, and, if the Registrar so requires, the translation shall be endorsed and signed by the applicant or his agent and the endorsement shall state the name of the language to which that word belongs.

(6) The Registrar may, in respect of any information required to be supplied by any person in connection with any proceedings before the Registrar, require the person to supply the information in one or both of the official languages on such terms as the Registrar thinks fits.

(7) The Registrar may specify periods within which translations of documents are to be provided by a party to proceedings before the Registrar, and he may provide for extensions of such periods on request by that party pursuant to section 65.

82. Service of documents

(1) Subject to subsection (3), any notice or other document required or permitted by the Ordinance or these Rules to be sent to any person or place must be sent by hand or by post.

(2) Sending by post shall be deemed to be effected by properly addressing, preparing and posting a letter containing the document, and the document shall be deemed to have been received at the time when the letter, properly addressed and the postage thereon prepaid, would be delivered in the ordinary course of post.

(3) Where the Registrar is required or permitted by the Ordinance or these Rules to send a notice or other document to any person, he may send that document to that person by electronic means subject to such terms or conditions as the Registrar may specify by notice published in the official journal or as may be agreed between the Registrar and that person.

TRANSITIONAL

83. Pending applications for registration

(para. 10(2) of Sch. 3 to Ordinance)

When an application for registration of a mark made under the old law is advertised in accordance with section 14 or 66 of the repealed Ordinance on or after the date on which Schedule 3 to the Ordinance (transitional matters) comes into operation, the period within which notice of opposition may be filed shall be 3 months after the date of advertisement, and that period shall not be extendible.

84. Form for conversion of pending application

(para. 11 of Sch. 3 to Ordinance)

A notice to the Registrar under section 11(1) of Schedule 3 to the Ordinance (transitional matters), claiming to have the registrability of the mark determined in accordance with the Ordinance, shall be given in the specified form.

SCHEDULE 1

[ss. 2(2) & 5]

FEES

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SCHEDULE 2

[ss. 6(1), 23(h),
38(1)]

CLASSIFICATION OF GOODS

(Note: This was the Classification in the Third Schedule to the Trade Marks Rules under the Trade Marks Ordinance (Chapter 43, Laws of Hong Kong, Revised Edition 1950)).

Class	Goods included in class
1.	Chemical substances used in manufactures, photography, or philosophical research, and anti-corrosives.
2.	Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.
3.	Chemical substances prepared for use in medicine and pharmacy.
4.	Raw, or partly prepared, vegetable, animal, and mineral substances used in manufactures, not included in other classes.
5.	Unwrought and partly wrought metals used in manufacture.
6.	Machinery of all kinds, and parts of machinery, except agricultural and horticultural machines and their parts included in class 7.
7.	Agricultural and horticultural machinery, and parts of such machinery.

8. Philosophical instruments, scientific instruments, and apparatus for useful purposes; instruments and apparatus for teaching.
9. Musical instruments.
10. Horological instruments.
11. Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals.
12. Cutlery and edge tools.
13. Metal goods, not included in other classes.
14. Goods of precious metals and jewellery, and imitations of such goods and jewellery.
15. Glass.
16. Porcelain and earthenware.
17. Manufactures from mineral and other substances for building or decoration.
18. Engineering, architectural, and building contrivances.
19. Arms, ammunition, and stores, not included in class 20.
20. Explosive substances.
21. Naval architectural contrivances and naval equipments not included in other classes.
22. Carriages.
23. (a) Cotton yarn.
(b) Sewing cotton.
24. Cotton piece goods.
25. Cotton goods not included in other classes.
26. Linen and hemp yarn and thread.

27. Linen and hemp piece goods.
28. Linen and hemp goods not included in other classes.
29. Jute yarns and tissues, and other articles made of jute, not included in other classes.
30. Silk, spun, thrown or sewing.
31. Silk piece goods.
32. Silk goods not included in other classes.
33. Yarns of wool, worsted or hair.
34. Cloths and stuffs of wool, worsted or hair.
35. Woollen and worsted and hair goods, not included in other classes.
36. Carpets, floor-cloth, and oil-cloth.
37. Leather, skins unwrought and wrought, and articles made of leather not included in other classes.
38. Articles of clothing.
39. Paper (except paper hangings), stationery, and bookbinding.
40. Goods manufactured from india-rubber and gutta-percha not included in other classes.
41. Furniture and upholstery.
42. Substances used as food or as ingredients in food.
43. Fermented liquors and spirits.
44. Mineral and aerated waters, natural and artificial, including ginger beer.
45. Tobacco, whether manufactured or unmanufactured.
46. Seeds for agricultural and horticultural purposes.
47. Candles, common soap, detergents; illuminating, heating, or lubricating oils; matches; and starch, blue, and other preparations for laundry purposes.

48. Perfumery (including toilet articles, preparations for the teeth and hair and perfumed soap).
49. Games of all kinds and sporting articles not included in other classes.
50. Miscellaneous -
 - (1) Goods manufactured from ivory, bone or wood, not included in other classes.
 - (2) Goods manufactured from straw or grass, not included in other classes.
 - (3) Goods manufactured from animal and vegetable substances, not included in other classes.
 - (4) Tobacco pipes.
 - (5) Umbrellas, walking sticks, brushes and combs for the hair.
 - (6) Furniture cream, plate powder.
 - (7) Tarpaulins, tents, rick-cloths, rope (jute or hemp), twine.
 - (8) Buttons of all kinds other than of precious metal or imitations thereof.
 - (9) Packing and hose.
 - (10) Other goods not included in the foregoing classes.

SCHEDULE 3

[ss. 6(2) & (3), 8,
38(1), 50(1), 51(2)]

CLASSIFICATION OF GOODS AND SERVICES

Part 1

Classes of goods

(Note: Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other classes).

Class	Goods included in class
1.	Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.
2.	Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colourants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.
3.	Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and

abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

4. Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.
5. Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.
6. Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.
7. Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements (other than hand operated); incubators for eggs.
8. Hand tools and implements (hand operated); cutlery; side arms; razors.
9. Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving

and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.
11. Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
12. Vehicles; apparatus for locomotion by land, air or water.
13. Firearms; ammunition and projectiles; explosives; fireworks.
14. Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.
15. Musical instruments.
16. Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional

- and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.
17. Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.
 18. Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
 19. Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.
 20. Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.
 21. Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; un-worked or semi-worked glass (except

glass used in building); glassware, porcelain and earthenware not included in other classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.
23. Yarns and threads, for textile use.
24. Textiles and textile goods, not included in other classes; bed and table covers.
25. Clothing, footwear, headgear.
26. Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.
27. Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).
28. Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.
29. Meat, fish, poultry and game; meat extract; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.
30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice.
31. Agricultural, horticultural and forestry products and grains not included in other classes; living

- animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.
32. Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.
33. Alcoholic beverages (except beers).
34. Tobacco; smokers' articles; matches.

Part 2

Classes of services

- | Class | Services included in class |
|-------|---|
| 35. | Advertising; business management; business administration; office functions. |
| 36. | Insurance; financial affairs; monetary affairs; real estate affairs. |
| 37. | Building construction; repair; installation services. |
| 38. | Telecommunications. |
| 39. | Transport; packaging and storage of goods; travel arrangement. |
| 40. | Treatment of materials. |
| 41. | Education; providing of training; entertainment; sporting and cultural activities. |
| 42. | Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes. |

Registrar of Trade Marks.

2000.

Explanatory Note

These Rules replace the repealed Trade Marks Rules (Cap. 43 sub. leg.). They re-enact, with modifications and amendments of a drafting nature, several provisions of the repealed rules and make several changes of substance in order to give effect to the provisions of the new Trade Marks Ordinance (of 2000).

2. The main changes are as follows -

- (a) forms required to be used for the purposes of registration and for proceedings before the Registrar are not set out in the Rules; they are, however, required to be published in the official journal;
- (b) users may satisfy the requirement to file a form by filing either a replica of the form or a form acceptable to the Registrar (section 3 (2));
- (c) the provisions governing the filing of documents cover filing by electronic means thus

- making further rule changes (to cater for future developments) unnecessary (section 4 (2));
- (d) a single application may relate to goods and services classified in more than one class of Schedule 3 (section 8 (2));
 - (e) the time limits for correcting deficiencies in any application are set out in one place (section 10);
 - (f) with the consent of both of the parties the Registrar may grant a “cooling-off period” in actions for opposition to registration of a trade mark (section 14);
 - (g) with respect to opposition proceedings and revocation, variation and invalidation proceedings, provision is made for the substitution of one party for another in cases where a corporate party is wound up or merged with or acquired by another body corporate (sections 17A and 37A);
 - (h) provision is made for the division of applications (section 21);
 - (i) provision is made for the merging of applications providing this takes place before their publication for opposition purposes (section 22);
 - (j) provision is made for the entry onto the register of details concerning registrations in addition to those prescribed by section 65(2) of the Ordinance (section 23);

- (k) provision is made for the publication of voluntary disclaimers (section 29);
- (l) provision is made for the amendment of entries in the register consequent upon changes in the system of classification that have been agreed internationally (section 38) and for opposition to such changes (section 39);
- (m) provision is made for the entry of details of registrable transactions covered by sections 27 and 29 of the Ordinance (section 41);
- (n) provision is made concerning the public's right to inspect and search the register and certain documents filed at the Trade marks Registry (sections 46 to 48);
- (o) provision is made for the acceptance of affidavits in addition to statutory declarations, and the manner of subscription has been simplified to make it easier for overseas applicants to meet the Trade Marks Registry's requirements (section 57);
- (p) provision is made for the Registrar to call case management conferences and pre-hearing reviews (sections 61 and 62);
- (q) the procedures to be followed when correcting an error or an irregularity in procedure have been clarified (section 64);
- (r) provision is made for the extension and alteration of time limits prescribed by the

- Rules or specified by the Registrar (sections 65 and 66);
- (s) following the introduction of registration of collective marks in section 59 of the Ordinance, provision is made for the filing of regulations concerning their use, and for their amendment and opposition to such amendment (sections 70 and 71);
 - (t) the requirements for providing an address for service have been simplified so that it is clear that such an address is only required for the purposes of any proceedings before the Registrar (section 74);
 - (u) the hours of business and business days of the Registry as specified by the Registrar are to be posted in the Registry and published (section 75);
 - (v) section 83 provides that in the case of a pending application (i.e., one made under the old law) which is advertised on or after the commencement of the new Ordinance, the period within which notice of opposition may be filed shall be 3 months after the date of advertisement and that the period shall not be extendible;
 - (w) section 84 provides for the form of the notice that is required to be filed with the Registrar if an applicant wishes to have the registrability of a mark for which an

application is pending, and which has not been advertised before the commencement of the new Ordinance, determined in accordance with the Ordinance.