

L.N. 62 of 2006**TRADE MARKS (AMENDMENT) RULES 2006**

(Made by the Registrar of Trade Marks under section 91
of the Trade Marks Ordinance (Cap. 559))

1. Commencement

These Rules shall come into operation on 26 May 2006.

2. Deficiencies in application

(1) Rule 11(2)(a) of the Trade Marks Rules (Cap. 559 sub. leg. A) is amended by repealing “, 7(1) or (2)”.

(2) Rule 11(2)(a) is amended by repealing “and” at the end.

(3) Rule 11(2) is amended by adding—

“(aa) where the deficiencies relate to the class or classes of goods or services in the International Classification required to be specified under rule 7(1), the part of the application relating to the goods or services the specification of the class or classes for which is deficient shall be treated as abandoned;

(ab) where the deficiencies relate to the description of goods or services required to be provided under rule 7(2), the part of the application relating to the goods or services the description of which is deficient shall be treated as abandoned; and”.

3. Examination of application

(s. 42(1) of the Ordinance)

(1) Rule 12 is amended by renumbering it as rule 12(1).

(2) Rule 12(1) is amended by repealing “The Registrar” and substituting “Subject to subrule (2), the Registrar”.

(3) Rule 12 is amended by adding—

“(2) Where rule 11(2)(aa) or (ab) applies, the Registrar shall examine whether the remaining part of the application that is not affected by the deficiencies referred to in that rule satisfies the requirements for registration.”.

4. Renewal of registration: special case
(s. 50(1), (3) & (7) of the Ordinance)
(Form T8) (Fee No. 9)

Rule 33(1) is amended by adding “the” before “application for registration”.

5. Publication of proposals
(s. 58(3)(b) of the Ordinance)

(1) Rule 60(2) is amended by repealing everything after “consider the objections” and substituting a full stop.

(2) Rule 60 is amended by adding—

“(3) If, having considered the objections, the Registrar is satisfied that the objections (or part of the objections) have merit, he shall—

(a) abandon the proposals; or

(b) amend the proposals and publish the proposals as amended in the official journal.

(4) If, having considered the objections, the Registrar is satisfied that the objections are without merit, he shall publish the proposals in the official journal.”.

6. Application or notice to register registrable transaction

(ss. 29 & 31(3) of the Ordinance)
(Forms T10 & T11) (Fee No. 19)

(1) Rule 62(2) is amended by repealing “signed by or on behalf of the parties to the assignment” and substituting “signed by or on behalf of the assignor”.

(2) Rule 62(4) is amended by repealing “signed by or on behalf of both the personal representative and the beneficiary” and substituting “signed by or on behalf of the personal representative”.

7. Filing of documents with the Registrar

Rule 108(1) is amended by adding “by hand” after “delivered”.

S. R. SELBY
Registrar of Trade Marks

15 March 2006

Explanatory Note

These Rules amend the Trade Marks Rules (Cap. 559 sub. leg. A) (“the principal Rules”).

2. Rule 1 provides for the commencement of these Rules.

3. Rule 2 amends rule 11(2) of the principal Rules to clarify that if the Registrar of Trade Marks (“the Registrar”) considers that part of an application for registration of a trade mark does not comply with the requirements of rule 7(1) or (2) of the principal Rules, and the applicant fails to remedy the deficiencies, only that part of the application (and not the whole application) will be treated as abandoned.

4. Rule 3 amends rule 12 of the principal Rules to clarify that if only part of an application for registration of a trade mark does not comply with the requirements of rule 7(1) or (2) of the principal Rules, the Registrar shall examine whether the remaining part of the application satisfies the requirements for registration.

5. Rule 4 amends rule 33(1) of the principal Rules to rectify a clerical error.

6. Rule 5 amends rule 60 of the principal Rules to empower the Registrar to proceed with the proposed amendments of the entries in the register of trade marks by publishing the proposal in the official journal if he is satisfied that the objections to the proposed amendments are without merit.

7. Rule 6(1) amends rule 62(2) of the principal Rules to simplify the signing requirement in respect of an application or a notice relating to an assignment by requiring that the application or the notice be signed by or on behalf of the assignor. Under the existing rule 62(2) of the principal Rules, the application or the notice must be signed by or on behalf of the parties to the assignment.

8. Rule 6(2) amends rule 62(4) of the principal Rules to simplify the signing requirement in respect of an application or a notice relating to the making by a personal representative of an assent by requiring that the application or the notice be signed by or on behalf of the personal representative. Under the existing rule 62(4) of the principal Rules, the application or the notice must be signed by or on behalf of both the personal representative and the beneficiary.

9. Rule 7 amends rule 108(1) of the principal Rules to clarify that the expression “delivered to the Registrar” in that rule 108(1) means “delivered to the Registrar by hand”.