









# TRADE MARKS RULES, 1996 (as amended)

Amended by:

-  Patents, Trade Marks and Design (Fees) (Amendment) Rules 2012
-  S.I. No. 229/2000- Trade Marks Act (Community Trade Mark) Regulations, 2000
-  S.I. No. 621/2007 Trade Marks (Amendment) Rules 2007
-  S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010
-  S.I. No. 482/2001 Patents, Trade Marks and Design (Fees) Rules 2001
-  Repealed or Deleted
-  S.I. No. 533/2015 Trade Marks (Amendment) Rules 2015
-  S.I. No.46/2016 Trade Marks (Amendment) Rules 2016
-  S.I. No. 562/2018 Trade Marks (Amendment) Rules 2018
-  S.I. No. 564/2018 Patents, Trade Marks and Designs (Fees) (Amendment) Rules 2018

**Note to users:**

This is an unofficial consolidation of the Trade Marks Rules 1996 and amendments up to and including the 14th January 2019 and is produced here as a reference document only. This document has no legal force. The Trade Marks Rules, 1996 has been updated on a number of occasions since it came into force on 27th June 1996, but has not been officially consolidated into a single text. Whilst every effort has been made to ensure the accuracy of the information/material contained on this document, the State nor the Department of Enterprise, Jobs and Innovation, its servants or agents assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and do not accept any liability whatsoever arising nor for any errors or omissions in this document.

**S.I. No. 199/1996**

**TRADE MARKS RULES, 1996**

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**S.I. No. 199 of 1996.**

**TRADE MARKS RULES 1996**

I, Richard Bruton, Minister for Enterprise and Employment, in exercise of the powers conferred on me by section 81 of the Trade Marks Act, 1996 (No. 6 of 1996), and in exercise, with the sanction of the Minister for Finance, of the powers conferred on me by section 82 of that Act, and in exercise of the powers conferred on me by section 92 (1) of the Patents Act, 1992 (No. 1 of 1992), as amended by section 73 of the Trade Marks Act, 1996, hereby make the following rules:

**Preliminary**

**Short title.**

1. These rules may be cited as the Trade Marks Rules, 1996.

**Interpretation.**

2. (1) In these Rules, unless the context otherwise requires—

"the Act" means the Trade Marks Act, 1996 (No. 6 of 1996);

"agent" means an agent duly authorised in accordance with these Rules and registered in the Register of Trade Mark Agents;

"form" means a form set out in Schedule 2;

"Schedule" means one of the Schedules to these rules;

"section" means a section of the Act;

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

(2) In these Rules a subsection of a section is indicated by a number enclosed in brackets immediately following the number of the section.

**Commencement.**

3. These Rules shall come into operation on the first day of July, 1996.

## **Fees.**

4. (1) The fees to be paid in relation to any matter under the Act and these Rules shall be those specified in Schedule I.

~~(2) Fees shall be paid in the currency of the State. Save as otherwise provided in this Rule, payment of a fee or fees by any person shall be made by cheque payable to the Minister for Enterprise and Employment and crossed "& Co.", guaranteed to the satisfaction of the Controller, drawn on any bank carrying on business in the State and presented at the Office with the application or the matter to which it relates.~~

~~(3) Payment of a fee or fees by a person who, at the date of payment, is outside the State shall be made by banker's draft, or Post Office Money Order, payable to the Minister for Enterprise and Employment and crossed "& Co.", and sent by post to the Office.~~

(2) Fees shall be paid in the currency of the State.

(3) Payment of a fee or fees may be made by any method acceptable to the Controller.

~~(4) Any fee or fees paid at the Office not exceeding £200 may be paid in cash.\*~~

(5) (a) A request for the remission of the whole or part of any fee properly paid shall be made in writing.

(b) No appeal shall lie from any decision of the Controller in respect of such a request.

## **Certificates for use in obtaining registration abroad.**

5. (a) The Controller may issue certificates for use in connection with applications for registration abroad of marks which are the subject of applications pending before the Controller or which he or she has registered in the register.

(b) A certificate shall contain such information about a pending application or a registration as may be appropriate.

## **Classification of goods and services.**

6. For the purposes of the registration of trade marks, goods and services shall be classified as specified in the ~~Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957), as revised at Stockholm (1967) and at Geneva (1977), and as amended Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957.~~

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

### **Signature of documents.**

7. A document purporting to be signed by, or on behalf of, a partnership or body corporate shall be signed, by any person who is duly authorised to sign the document.

### **Filing of documents.**

8. (a) (i) Any application, notice or other document authorised or required under the Act or these Rules to be delivered to the Controller or any other person may be sent by post.
- (ii) In proving the sending it shall be sufficient to prove that the letter was properly addressed, prepaid (when requisite) and posted.
- (b) The Controller may at his or her discretion allow ~~submission of documents~~ [submission of applications, notices or documents](#) by other means subject to such terms or conditions as may be specified by him or her and published in the Journal.
- (c) [Where the Controller has specified that an application, notice or document may be delivered in electronic form, any requirement in these Rules for a duplicate copy to be filed shall not apply.\\*](#)

### **Translations.**

9. (1) Where a document or part thereof which is in a foreign language is sent to the Controller in connection with any proceedings under the Act or these Rules, a translation verified to the satisfaction of the Controller shall also be furnished to the Controller.

(2) The Controller may refuse to accept any translation which is in his or her opinion inaccurate and thereupon another translation verified as aforesaid shall be furnished, together with the appropriate number of copies thereof.

### **Address for service.**

10. (1) (a) Every applicant and any person concerned in any proceeding under the Act or these Rules and every trade mark proprietor shall give to the Controller an address for service ~~in the State in the European Community<sup>†</sup>~~ [in a state which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as amended for the time being,\\*](#) and that address

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

† S.I. 621/2007 Trade Marks (Amendment) Rules 2007



may for all purposes under the Act and these Rules be treated as the actual address of the person who has furnished it.

(b) A letter addressed to such applicant, person or proprietor to his or her address for service shall be deemed to be properly addressed.

(2) For the purposes of this Rule, in a case where the person or proprietor concerned desires that the address for service shall consist of the address of an agent who is registered in the Register of Trade Mark Agents, the Controller may accept an address for service comprising the name of the agent so registered followed by a statement in the following terms: "at his or her address as recorded for the time being in the Register of Trade Mark Agents".

(3) Where an address for service has not been given as required under paragraph (1), the Controller shall send the person concerned notice to file an address for service within two months of the date of the notice and if that person fails to do so—

(a) in the case of an applicant under section 37, 51, 52 or 67, the application shall be treated as abandoned;

(b) in the case of a person referred to in section 43(2) or 43(3), the person shall be deemed to have withdrawn from the proceedings; and

(c) in the case of a proprietor of a registered trade mark which is the subject of an application under Rule 41, the proprietor shall not be permitted to take part in proceedings.

### **Revocation of existing rules &c.**

**11.** (1) Subject to paragraph (2), the Rules specified in Schedule 3 are hereby revoked.

(2) The said Rules shall continue to apply to any matter to which by virtue of section 100 of, and the Third Schedule to the Act, the Act of 1963 continues to apply.

### **Application for Registration**

#### **Application for Registration**

**12.** (1) The following documents are hereby prescribed for the purpose of section 38:

(a) a document indicating that registration of a trade mark is sought and containing the name and address of the person requesting registration;

(b) a document containing a representation of the mark the registration of which is sought;

(c) a document in which the goods or services in respect of which the mark is to be registered are stated.

- (2) (a) An application for registration of a trade mark shall be made in Form No. 1 and shall contain the information required by that Form.
- (b) Where a right to priority is claimed, the information required by Form No. 1 concerning claims to priority shall be furnished in the Form.
- (3) (a) A representation of a mark shall not exceed 8cm x 8cm in size unless the Controller, in the case of a specific application, agrees to a greater size.
- (b) The Controller may request an applicant to submit additional representations of a mark.
- (c) Where an application indicates that registration of a three-dimensional mark is sought, the representation of the mark shall consist of a photographic reproduction or a graphic representation of the mark. A number of perspectives not exceeding 6 may be submitted. The representation which most characteristically illustrates the mark shall be shown in the space indicated in Form No. 1 and the additional perspectives shall be submitted on separate sheets.
- (d) The Controller may give directions either generally, or by reference to a specific application for registration, as to the furnishing and form of representation of marks for the purpose of applications for registration.
- (4) If an applicant states that a mark, when used, will be in a particular colour (or colours), this fact shall be published by the Controller when the application for registration has been accepted and shall be entered in the register upon registration of the mark.
- (5) If the application fee was not submitted with the application and is not received within a period of one month from the date of filing of an application for registration as determined under section 38(1), the application shall be deemed to have been abandoned at the end of that period.

12A. (1) For the purposes of section 37 of the Act, an application for registration of a trade mark shall be made in accordance with paragraph (2)(a) to (k), as appropriate and—

(a) shall include a representation of the mark in respect of which registration is being sought, and

(b) may include a description of the representation concerned and, where such a description is included, shall accord with the representation and shall not extend the scope of that representation.

(2) Where the application for the registration of a trade mark concerns any of the trade mark types listed in subparagraphs (a) to (k), the type of the trade mark and its representation shall accord with each other as follows:\*

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

(a) in the case of a trade mark consisting exclusively of words or letters, numerals, other standard typographic characters or a combination thereof (in these Rules referred to as a “word mark”), the representation of the mark shall consist of a reproduction of the mark in standard script and layout, without any graphic feature or colour;

(b) in the case of a trade mark where non-standard characters, stylisation or layout, or a graphic feature or a colour are used and consist exclusively of figurative elements (in these Rules referred to as a “figurative mark”), the representation of the mark shall consist of a reproduction of the mark showing all its figurative elements and, where applicable, its colours;

(c) in the case of a trade mark consisting of a combination of elements of a word mark as referred to in subparagraph (a) and elements of a figurative mark as referred to in subparagraph (b), then the representation of the mark shall consist of a reproduction of the mark showing both the word and figurative elements and, where applicable, the colours (in these Rules referred to as a “combined mark”);

(d) in the case of a trade mark consisting of, or extending to, a three-dimensional shape, including the product itself, packaging, containers or their appearance (in these Rules referred to as a “three-dimensional shape mark”), the following applies:

- (i) the representation of the mark shall consist of either a graphic reproduction of the shape, including computer-generated imaging, or a photographic reproduction;
- (ii) the graphic or photographic reproduction may contain different views;
- (iii) where the representation is not provided electronically, it may contain up to six different views;
- (iv) the representation which most characteristically illustrates the mark shall be shown in the space indicated in Form No. 1 and the additional perspectives shall be submitted on different sheets;

(e) in the case of a trade mark consisting of the specific way in which the mark is placed or affixed on the product (in these Rules referred to as a “position mark”), the following applies:

- (i) the representation of the mark shall consist of a reproduction which appropriately identifies the position of the mark and its size or proportion with respect to the relevant goods;

(ii) <sup>\*</sup> the elements which do not form part of the subject matter of the registration shall be visually disclaimed preferably by broken or dotted lines;<sup>†</sup>

(iii) the representation may be accompanied by a description detailing how the sign is affixed on the goods;<sup>‡</sup>

(f) in the case of a trade mark consisting exclusively of a set of elements which are repeated regularly (in these Rules referred to as a “pattern mark”), the representation of the mark shall consist of a reproduction showing the pattern of repetition. The representation may be accompanied by a description detailing how its elements are repeated regularly;

(g) in the case of a trade mark referred to in clause (i) or (ii) (in these Rules referred to as a “colour mark”), where the trade mark consists exclusively of—

(i) a single colour without contours, the representation of the mark shall consist of a reproduction of the colour and an indication of that colour by reference to a generally recognised colour code, or

(ii) a combination of colours without contours, the representation of the mark shall consist of a reproduction that shows the systematic arrangement of the colour combination in a uniform and predetermined manner and an indication of those colours by reference to a generally recognised colour code and may include a description detailing the systematic arrangement of the colours;

(h) in the case of a trade mark consisting exclusively of a sound or combination of sounds (in these Rules referred to as “a sound mark”)—

(i) the representation of the mark shall consist of an audio file reproducing the sound or by an accurate transcription of the sound in musical notation, and

(ii) where the representation of the mark consists exclusively of an audio file, the entire application shall be submitted in electronic format;

(i) in the case of a trade mark consisting of, or extending to, a movement or a change in the position of the elements of the mark (in these Rules referred to as “a motion mark”)—

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

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‡ S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

- (i) the representation of the mark shall consist of a video file or by a series of sequential still images showing the movement or change of position,
- (ii) where still images are used, the images may be numbered or accompanied by a description explaining the sequence, and
- (iii) where the representation of the mark consists exclusively of a video file, the entire application shall be submitted in electronic format;

(j) in the case of a trade mark consisting of, or extending to, the combination of image and sound (in these Rules referred to as “a multimedia mark”)—\*

- (i) the representation of the mark shall consist of an audio-visual file containing the combination of the image and the sound, and
- (ii) where the representation of the mark consists exclusively of an audio-video file, the entire application shall be submitted in electronic format;

(k) in the case of a trade mark consisting of elements with holographic characteristics (in these Rules referred to as “a hologram mark”)—

- (i) the representation of the mark shall consist of a video file or a graphic of photographic reproduction containing the views which are necessary to sufficiently identify the holographic effect in its entirety, and
- (ii) where the representation of the mark consists exclusively of a video file, the entire application shall be submitted in electronic format.

(3) Where the representation of the trade mark is required to be provided electronically, the Controller shall determine the format and size of the electronic file as well as any other technical specifications.

(4) Where the representation of the trade mark is not required to be provided electronically, that representation shall be provided in accordance with Rule 12(3)(a).

### **Claim to priority.**

**13.** Where a right to priority is claimed under section 40 or 41 there shall be filed, with the application or within 3 months of the date of filing thereof, a certificate by the competent national authority or such documentary evidence as the Controller may

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

**require\*** verifying to the Controller's satisfaction the date and country of filing, the representation of the mark, the goods or services covered by the earlier application and its filing number.

**Application may be for more than one class.**

**14.** (1) A single application may be made for registration in respect of one or more classes of the Nice Agreement.

(2) Every application shall specify the class or classes to which it relates and shall specify the goods or services relating to that class in respect of which registration is sought.

(3) The Controller may require the applicant to amend an application which specifies goods or services by reference to a class in which they do not fall, and to pay any additional class fee or fees which may be required.

**Matters not registrable.**

**15.** The Controller may refuse to accept any application for the registration of a mark upon which any of the following appears in the representation of the mark:—

(a) the word "Patent", "Patented", "Registered", "Copyright", or any other word or any symbol with a like signification;

(b) any badge, emblem, or device referred to in section 9(3) unless the written consent of the appropriate public authority to the registration is furnished to the Controller;

(c) words or initials precluded from registration by section 31 of the Industrial Research and Standards Act, 1961 (No. 20 of 1961).

**Procedure on Receipt of Application**

**Search.**

**16.** (1) For the purposes of sections 10 and 11, the scope and methodology of the search of earlier trade marks shall be as determined by the Controller.

(2) The Controller may at his or her discretion cause a search to be renewed at any time before the acceptance of an application.

**Publication.**

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**17.** An application for registration which has been accepted shall be published in the Journal in such manner as the Controller may direct and the Controller shall inform the applicant of the acceptance.

**Notice of opposition to registration.**

**18.** (1) Notice of opposition under section 43 shall be sent to the Controller within three months of the date of publication of the application in the Journal.

(2) The notice of opposition shall be submitted in duplicate accompanied by the prescribed fee or evidence of payment thereof, and shall include a statement of the grounds of opposition.

(3) The Controller shall on receipt of the notice of opposition send a copy to the applicant.

**18A.** (1) Save as otherwise provided by these Rules or the Act, the Controller may give such directions as to the management of any opposition proceedings as he or she thinks fit, and may in particular do any of the following: \*

(a) require a document, information or evidence to be filed within such period as the Controller may specify;

(b) require a translation of any document;

(c) elect to hold a hearing by video conference or any other method of direct oral communication;

(d) consolidate proceedings;

(e) direct that part of any proceedings be dealt with as separate proceedings;

(f) subject to Rules 20, 21, 22 and 23, exclude any evidence which the Controller considers to be inadmissible.

**Counter-statement.**

**19.** (1) ~~Within three months of receipt by the applicant~~ Within three months of the issue by the Controller to the applicant<sup>†</sup> of a copy of the notice of opposition, the applicant shall file a counter-statement in duplicate with the Controller, accompanied by the prescribed fee or evidence of payment thereof.

(2) The Controller shall on receipt of a counter-statement forthwith send a copy thereof to the opponent and failing receipt of a counter-statement within the prescribed period the application shall be deemed to have been withdrawn.

**Evidence in support of opposition.**

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

† S.I. 229/2000 Trade Marks Act, 1996 (Community Trade Mark) Regulations, 2000

**20.** (1) ~~Within three months of receipt by the opponent~~ Within three months of the issue by the Controller to the opponent\* of the copy of the counter-statement under Rule 19, the opponent shall file with the Controller such evidence by way of statutory declaration as he or she desires to adduce in support of his or her opposition and shall send to the applicant a copy thereof.

(2) Unless the Controller otherwise directs, an opponent who fails to file evidence under this Rule shall be deemed to have abandoned his or her opposition and the Controller shall proceed with the application accordingly.

#### **Evidence in support of application.**

**21.** (1) If the person opposing the registration files evidence under Rule 20, ~~the applicant shall~~, the applicant may<sup>†</sup> within three months of receipt of a copy of such evidence, file such evidence by way of statutory declaration as he or she desires to adduce in support of the application with the Controller and shall send a copy thereof to the opponent.

(2) ~~If the applicant chooses not to file evidence under this Rule, the evidence filing stage shall be deemed to be completed and proceedings shall progress in accordance with the provisions of Rule 25.<sup>‡</sup>~~

#### **Evidence in reply by opponent.**

**22.** (1) The opponent may, within two months of receipt of a copy of the evidence filed with the Controller under Rule 21, file evidence with the Controller by way of statutory declaration and shall deliver to the applicant a copy thereof.

(2) Evidence filed by the opponent under this Rule shall be confined to matters strictly in reply.

#### **Further evidence**

**23.** No further evidence may be filed unless, in any proceedings before the Controller, the Controller gives leave to either the applicant or the opponent to file evidence upon such terms as to costs or otherwise as the Controller may think fit.

#### **Exhibits.**

**24.** (1) (a) Where there are exhibits to declarations filed in an opposition, a copy or impression of such exhibits shall be sent to the other party unless such copy or impression cannot conveniently be furnished.

(b) If such copy or impression cannot conveniently be furnished, the originals shall be left with the Controller for inspection by the party concerned, and any dispute arising as to whether a copy or impression can conveniently be furnished, shall be determined by the Controller.

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\* S.I. 229/2000 Trade Marks Act, 1996 (Community Trade Mark) Regulations, 2000

† S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018



(2) The original exhibits shall be produced at the hearing of an opposition unless the Controller otherwise directs.

### **Hearing.**

~~25. (1) Upon completion of the evidence the Controller shall give notice to the parties of a date for a hearing, which shall be at least 21 days after the date of the notice unless the parties consent to a shorter notice.~~

~~(2) Within seven days of receipt of the notice, a party who intends to appear at the hearing shall so notify the Controller and shall pay the prescribed fee.~~

~~(3) A party who fails to notify the Controller in accordance with this Rule may be treated as not desiring to be heard, and the Controller may act accordingly.~~

25. (1) Upon completion of the evidence the Controller shall request each of the parties to elect whether they wish to—

(a) attend at a hearing, or

(b) file written submissions in lieu of attending at a hearing.

(2) Each party shall indicate their election pursuant to paragraph (1) to the Controller and the other party within 2 months from the date of the request. A party shall not file written submissions and attend at a hearing unless the Controller gives leave to do so.

(2A) Subject to paragraph (6), a party who does not elect a preference pursuant to paragraph (1) shall be deemed to have concluded their presentation of evidence and arguments.

(3) A party who elects to file written submissions in lieu of attending at a hearing shall file with the Controller such written submissions as he or she desires to adduce in support of his or her case within 4 months from the date of the request in paragraph (1) and shall send a copy of any submissions filed to the other party.

(3A) (a) If both parties elect to file written submissions, the Controller shall forward to each party a copy of the written submissions of the other party.

(b) Within one month of the receipt of the written submissions of the other party under paragraph (3), each party may file with the Controller written submissions which shall be confined to matters strictly in reply to the other party's submissions, and, shall send a copy of any submissions so filed to the other party.\*

(4) If neither party elects to attend at a hearing, each party may, within one month of the receipt of the written submissions of the other party under paragraph (3), file with the Controller written submissions which shall be confined to matters strictly in reply

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

to the other party's submissions. A party shall send a copy of any submissions so filed to the other party.

(5) No further written submissions may be filed by either party unless the Controller gives leave to do so upon such terms as to costs or otherwise as the Controller thinks fit.

(6) If either party elects to attend at a hearing, the Controller shall, after the period set out in paragraph (3) has expired, give notice to the parties of a date of a hearing, which shall be at least 30 days after the date of the notice unless the parties consent to a shorter notice period. A party who fails to elect to attend at a hearing in accordance with this Rule shall not be heard at the hearing, unless the Controller gives leave to do so.

(7) A party who intends to appear at a hearing shall notify the Controller ~~and pay the prescribed fee~~ within 14 days of receipt of the notice under paragraph (6).<sup>\*</sup>

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(8) A party who fails to notify the Controller ~~and pay the prescribed fee~~ † in accordance with paragraph (7) may be treated as not desiring to be heard, and the Controller may act accordingly.

*The amendment effected by Rule 5(1) of the Trade Marks (Amendment) Rules 2010 (namely the amendment to Rule 25) shall not apply where the Controller has given notice of a date for a hearing before these Rules came into operation, except where—*

*(a) the date for the hearing was subsequently cancelled by the Controller, or*

*(b) the hearing has been held, and the Controller has been unable to issue a decision or to issue written grounds for a decision, due to circumstances beyond his or her control*<sup>§</sup>

### **Amendment of Application.**

**26.** (1) Where a notice under section 44(1) restricting the goods or services covered by an application is received after publication of the application in response to a notice of opposition under Rule 18(1) or in the course of opposition proceedings the following provisions shall apply:

(i) the Controller shall, following publication of the restriction, inform the opponent of the restriction;

(ii) an opponent who has been informed by the Controller in accordance with subparagraph (i) shall, within one month of the date of the communication from the Controller inform the Controller whether he or she wishes to abandon

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<sup>\*</sup> S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

<sup>†</sup> S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

his or her opposition, to amend the notice of opposition filed under Rule 18 or to pursue the opposition on the basis of the notice of opposition given;

(iii) an opponent who does not respond to a communication from the Controller under subparagraph (i) within the time allowed shall be deemed to have expressed a wish to proceed with the notice of opposition as given.

(iv) where an opponent decides, in response to a communication under subparagraph (i), to amend the notice of opposition he or she shall inform the Controller accordingly and shall, at the same time, furnish to the Controller an amended notice of opposition in duplicate. A copy of the amended notice shall be sent by the Controller to the applicant. The amended notice shall be deemed to be the notice of opposition under Rule 18 and Rules 18 to 25 shall apply accordingly;

(v) where no notice of opposition had been given to the Controller under section 43(2) before the publication of the notice restricting the goods or services covered by an application, any notice of opposition under section 43(2) shall relate to the published application as restricted by the notice under section

44(1); and the prescribed period for filing of notice of opposition shall, in such case, be deemed to commence on the date on which the notice restricting the goods or services was published by the Controller.

(2) Where a request under section 44(3) to amend an application which has been published is filed in response to a notice of opposition under Rule 18(1) or in the course of opposition proceedings, and the proposed amendment affects the representation of the mark or the goods or services covered by the application, the Controller shall publish the proposed amendment and the provisions of subparagraphs (i) to (v) of paragraph (1) shall, subject to the appropriate modifications, apply;

(3) Where a request under section 44(3) to amend an application is filed prior to the date of publication of the application and the proposed amendment affects the representation of the mark or the goods or services covered by the application, the Controller shall, if he or she accepts the application, cause the application as amended to be published under section 43(1); and the provisions of Rules 18 to 25 shall thereupon apply.

### **Notification of Controller's decision and grounds.**

~~27. (1) The decision of the Controller in the exercise of any discretionary power following a hearing before him or her shall be notified to the party or parties concerned.~~

(1) The decision of the Controller in the exercise of any discretionary power following a hearing before him or her or the filing of any written submissions under Rule 25 shall be notified to the party or parties concerned\*

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

(2) A written statement of the grounds of a decision under paragraph (1) shall be furnished if application, accompanied by the prescribed fee, is made to the Controller by a party to the hearing within one month from the date of notification of the decision.

(3) Where, following *inter partes* proceedings, a written statement of grounds is furnished to one of the parties the Controller shall furnish every other party with a copy of the statement.

### **Division, Merger and Series of Marks**

#### **Division of application.**

**28.** (1) (a) At any time before a notification of acceptance by the Controller of an application has been issued, the applicant may send to the Controller a request for a division of the application ("the original application") into two or more separate applications ("divisional applications"), indicating for each divisional application those goods or services of the original application which are to be covered by it. A request for a division of an application shall be accompanied by the prescribed fee.

(b) A divisional application shall comply with the provisions of Rule 12(2) and (3) and shall be treated as a separate application for the purposes of the Act and these Rules save that the fee prescribed for the purpose of section 37(3) shall not be payable upon the filing of a divisional application. A divisional application shall have the same date of filing and priority date (if any) as the original application.

(c) A request under subparagraph (a) shall, in relation to the original application, have the effect that the goods or services which are to be covered by any divisional application shall be excluded from the original application.

(2) Upon division of an original application in respect of which notice had been given to the Controller of particulars relating to the grant of a licence, or a security interest or any right in or under the mark, the notice and the particulars shall be deemed to apply in relation to each of the divisional applications.

(3) An applicant may, after publication of an application, submit a request for a division of the application in response to a notice of opposition under Rule 18 or in the course of opposition proceedings; and where the applicant does so, the Controller shall inform the opponent and the provisions of Rule 26 (1), (ii), (iii) and (iv) shall apply to the opposition proceedings.

**28A.** (1) (a) At any time after the registration by the Controller of an application, the proprietor may send to the Controller a request for a division of the registration ("the original registration") into 2 or more separate registrations ("divisional registrations"), indicating for each divisional registration those goods or services of the original registration which are to be covered by it.

(b) A request for a division of a registration shall be accompanied by the prescribed fee.\*

(2) A divisional registration shall be treated as a separate registration for the purposes of the Act and these Rules. A divisional registration shall have the same date of filing and priority date (if any) as the original registration.†

(3) A request under paragraph (1)(a) shall, in relation to the original registration, have the effect that the goods or services which are to be covered by any divisional registration shall be excluded from the original registration.‡

(4) Upon division of an original registration in respect of which notice had been given to the Controller of particulars relating to the grant of a licence, or a security interest or any right in or under the mark, the notice and the particulars shall, where appropriate, be deemed to apply in relation to each of the divisional registrations.§

### **Merger of separate applications or registrations.**

**29.** (1) An applicant who has made separate applications for registration of the same mark may, at any time before a notification of acceptance of any of the applications has issued to the applicant, request the Controller to merge the separate applications into a single application.

(2) The Controller shall merge the applications into a single application if satisfied that they all —

(a) are in respect of the same trade mark, and

(b) bear the same date of filing and priority date (if any),

(3) Subject to the conditions in paragraph (4), a person who is the registered proprietor of two or more marks separately registered in his or her name may request the Controller to merge the separate registrations into one single registration.

(4) The conditions referred to in paragraph 3 are:

(i) each of the separate registrations shall relate to the same mark and have the same date of registration (as defined in section 45(3)) and priority date, if any, pursuant to section 40 or 41;

~~(ii) where a registrable transaction is recorded in the register, in respect of any of the marks to be merged, the Controller shall not merge the registrations unless the same transaction is recorded in respect of each of the other marks;~~

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

† S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

(ii) where a registrable transaction is recorded in the register in respect of any of the registrations to be merged—

(I) the Controller shall not merge the registrations unless the proprietor certifies that any person having an interest in that registration by virtue of the registrable transaction has been notified of the proposed merger at least 3 months prior to the date of the request and has not objected to it, and

(II) the Controller shall enter in the register, in relation to the merged registration, the relevant particulars of the registrable transaction, specifying the extent to which the registrable transaction affects the merged registration, including the details of the specific goods or services of the merged registration to which it relates.\*

(iii) any of the marks shall not have been registered subject to any disclaimer or limitation or, if so registered, the nature of the disclaimer or limitation must be the same in respect of each mark.

(5) The Controller shall, if satisfied that the separate registrations may be merged following consideration of a request under paragraph (3), determine the entry to be made in the register in relation to the single registration.

(6) Following the entry in the register referred to in paragraph (5), the separate registrations shall be deemed to have been removed from the register as of the date of the entry; and the entry shall be deemed to be a registered trade mark for the purpose of the Act and these Rules.

(7) The provisions of paragraphs (3) to (6) shall not apply in relation to marks which are collective or certification marks.

### **Registration of a series of trade marks.**

~~30. (1) (a) The proprietor of a series of trade marks may apply to the Controller for their registration as a series in a single registration and there shall be included in such application a representation of each mark claimed to be in the series.~~

~~(b) The Controller may, if satisfied that the marks constitute a series, register them in a single registration.~~

~~(2) Where the proprietor of a registered series of trade marks requests the Controller to delete a mark in that series, the Controller shall record such deletion in the register.~~

(1) (a) The proprietor of a series of trade marks may apply to the Controller for their registration as a series in a single registration provided that the series comprises no more than 6 trade marks and there shall be included in such application a representation of each mark claimed to be in the series.

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

(b) Where an application for the registration of a series of trade marks comprises 3 or more trade marks, the application shall be subject to the payment of the prescribed fee for each trade mark in excess of 2 trade marks.

(c) The Controller may, if satisfied that the marks constitute a series, register them in a single registration.\*

### **Collective and Certification Marks**

#### **Application under section 54.**

**31.** (1) The applicant shall file regulations governing the use of the mark with the Controller within six months of the date of application for registration of a collective mark. The regulations shall be accompanied by the prescribed fee.

(2) For the purpose of paragraphs 7(2) and 7(3) of the First Schedule to the Act, a period of 3 months from the date the specified conditions referred to in these subparagraphs are notified to the applicant, is hereby prescribed.

(3) For the purpose of paragraph 8(1) of the First Schedule to the Act, the regulations governing the use of the mark shall be open to public inspection on and from the date of publication of the application in the Journal and the period during which opposition to the regulations may be given, or observations made thereon, shall be 3 months from the said date of publication.

(4) A notice of opposition under paragraph 8(1) of the First Schedule to the Act shall contain a statement of the grounds of opposition and shall be accompanied by the prescribed fee.

(5) The Controller shall send a copy of a notice of opposition to the applicant and shall, thereafter, determine the procedure to be followed before deciding the issue.

#### **Amendment of regulations governing use of collective marks.**

**32.** (1) Where regulations governing the use of a collective mark are amended, the regulations, as amended, shall be submitted to the Controller in accordance with paragraph 10 of the First Schedule to the Act.

~~(2) Following acceptance of amended regulations, the Controller shall publish a notice in the Journal indicating that copies of the amended regulations are available for public inspection at the Office.~~

(2) Following acceptance of amended regulations, the Controller shall publish notice in the register and in the Journal to that effect and any such notice shall state the date

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

of acceptance and that copies of the amended regulations are available for public inspection at the Office.\*

### **Application under section 55.**

**33.** (1) The applicant shall file the regulations governing the use of the mark and pay the fee prescribed for this purpose within six months of the date of authorisation to proceed under paragraph 7(3) of the Second Schedule to the Act. At the option of the applicant the regulations, accompanied by the prescribed fee, may be filed with the Controller at an earlier date.

(2) Where the Controller authorises an application to proceed, a report shall be furnished by him or her to the Minister thereon if the applicant files the regulations referred to in paragraph (1) of this Rule. The Minister may, if necessary, hear the applicant before giving a direction under paragraph 8 of the Second Schedule to the Act.

(3) For the purposes of paragraphs 8(2) and 8(3) of the Second Schedule to the Act a period of 4 months from the date of the notification of any conditions imposed by the Minister is hereby prescribed.

(4) (a) For the purpose of paragraph 9 of the Second Schedule to the Act, the regulations governing the use of the mark shall be open to public inspection on and from the date of publication of the application in the Journal in accordance with section 43(1) and the period during which opposition may be given, or observations made, under the provisions of that Paragraph shall be 3 months from the said date of publication.

(b) A notice of opposition under paragraph 9 of the Second Schedule to the Act shall contain a statement of the grounds of opposition and shall be accompanied by the prescribed fee.

(c) A notice of opposition shall be filed with the Minister and the opponent shall, simultaneously, furnish the Controller with a copy. On receipt of a notice of opposition the Minister shall send a copy of the notice to the applicant and shall, thereafter, determine the procedure to be followed before he or she decides the issue.

### **Amendment of regulations governing use of certification marks.**

**34.** (1) Where the proprietor of a registered certification mark requests that the regulations governing the use of the mark be amended, a draft of the regulations showing desired amendments thereon shall be submitted to the Controller.

(2) Where it appears expedient to do so, the Minister shall cause a request to amend regulations under paragraph (1) of this Rule to be published.

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018



- (3) (a) Any person may, within three months of the date of the publication under paragraph (2) of this Rule, give notice to the Minister of opposition to the amended regulations on the grounds that they do not satisfy paragraph 7(1)(a) of the Second Schedule to the Act or that the proprietor of the mark is not competent to certify the goods or services for which the mark is registered.
- (b) The notice of opposition shall be accompanied by a statement setting out fully the grounds upon which the amended regulations are opposed.
- (4) A copy of any notice and statement under paragraph (3) of this Rule shall be sent by the Minister to the proprietor.
- (5) The Minister shall not decide the matter without giving the parties an opportunity to be heard.
- (6) Following the consent of the Minister to amended regulations the Controller shall publish a notice in the Journal that copies of the amended regulations are available for public inspection at the Office.

### **Alterations and Surrender of Registered Trade Mark.**

#### **Alteration of registered trade mark.**

- 35.** (1) An application under section 49(1) shall state the reasons therefor and the Controller may require the submission by the proprietor of evidence in support of the application.
- (2) Where an application under section 49(1) is advertised in the Journal by the Controller, any notice of opposition under section 49(3) shall be filed with the Controller within 3 months of the date of the advertisement of the application. A notice of opposition shall state fully the grounds upon which the application is opposed and shall be accompanied by the prescribed fee. Upon receipt of a notice, the Controller shall send a copy thereof to the proprietor and shall hear the parties, if so required, before he or she decides the matter.

#### **Surrender of registered trade mark.**

- 36.** (1) A notification of surrender of a registered trademark shall be submitted to the Controller and shall specify the goods or services covered by the registration in respect of which the mark is being surrendered.
- (2) The Controller shall not act upon a notice of surrender under paragraph (1) unless the proprietor, in that notice —
- (a) certifies that he or she is not precluded by contract or other agreement or arrangement from surrendering the mark,
- (b) specifies the name and address of each person entered in the register as having an interest in the mark, and

(c) certifies that each of the persons named under (b) has been notified of the proprietor's intention to surrender the mark at least 3 months prior to the date of the notice to the Controller and that none of the persons has objected to the surrender.

(3) If it appears to the Controller from the register that a person other than the proprietor has an interest in the mark and that person's name is not included in the list referred to in paragraph (2)(b), the Controller may require the proprietor to notify that person of the proposed surrender and shall not act on the notice to surrender the mark until he or she is satisfied that the person notified under this paragraph has not objected to the surrender within the period specified in paragraph (2).

(4) Where the proprietor has complied with the requirements of this Rule, the Controller shall enter the surrender of a trade mark in the register and notice of the surrender shall be published in the Journal.

(5) As from the date of publication in the Journal of the notice referred to in paragraph (4), the effects of registration shall, to the extent that the mark has been surrendered, cease to apply; but no action for infringement shall lie in respect of any act done before that date.

### **Renewal and Restoration**

#### **Reminder of renewal of registration.**

37. At any time ~~not earlier than six months nor later than one month~~ not later than six months before the expiration of the registration of a trade mark or any renewal thereof, the Controller shall (except where renewal has already been effected under Rule 38) send to the registered proprietor notice that the registration may be renewed as prescribed in that Rule and of the date of ~~expiry~~ expiry however, the Controller shall not be held liable if he or she fails to give such information.\*

#### **Renewal of registration.**

38. An application for the renewal of the registration of a trade mark shall be effected by filing a request for renewal under section 48 at any time not earlier than six months before the expiration of the registration or any renewal thereof as the case may be, accompanied by the prescribed fee or evidence of payment thereof.

#### **Delayed renewal and removal of registration.**

39. (1) If, on the expiration of the registration of a trade mark or renewal thereof, the renewal fee has not been paid the Controller shall publish that fact; and if, within six months from the date of the expiration of the registration or renewal thereof, a request for renewal is filed accompanied by the renewal fee and the prescribed additional fee, the Controller shall renew the registration and shall inform the proprietor thereof.

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

(2) Where a request for renewal is not so filed together with the prescribed renewal and additional fees, the Controller shall, subject to Rule 40, remove the mark from the register.

(3) Where the date of issue of a certificate of registration of a mark is later than two months prior to expiry of the period of 10 years specified in section 47, the following provisions shall apply:

(i) the period within which a request for renewal of registration shall be filed under Rule 38 and the prescribed fee paid shall be the unexpired term of the 10 year period or 6 weeks from the date of issue of the certificate of registration, whichever is the later.

(ii) the Controller shall not publish a notice of non-payment under paragraph (1) until after the expiry of the appropriate period provided for in subparagraph (i).

(iii) the other provisions of this Rule shall apply subject to the modifications in subparagraphs (i) and (ii).

### **Restoration of registration.**

**40.** (1) Where a mark has been removed from the register for failure to renew its registration the Controller may, upon a request filed within six months of the date of publication of the removal of the mark accompanied by the appropriate renewal fee and appropriate restoration fee, restore the mark to the register and renew its registration if, having regard to the circumstances of the failure to renew, the Controller is satisfied that it is just to do so.

(2) The restoration of the registration shall be published in the Journal.

### **Revocation, Invalidation and Rectification**

#### **Procedure on application for revocation, declaration of invalidity and rectification of the register.**

**41.** (1) An application to the Controller for revocation under section 51 or for a declaration of invalidity under section 52 or for the rectification of an error or omission in the register under section 67 shall contain a statement of the grounds on which the application is made and shall be accompanied by the prescribed fee.

(2) Where any application is made under paragraph (1) of this Rule by a person other than the proprietor of the registered trade mark, the Controller shall send a copy of the application and the statement to the proprietor.

~~(3) Within three months of receipt by the proprietor~~ ~~Within three months of the issue by the Controller to the proprietor~~<sup>\*</sup> ~~of the copy of the application and the statement~~

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\* S.I. 229/2000 Trade Marks Act, 1996 (Community Trade Mark) Regulations, 2000

~~the proprietor may file a notice of opposition with the Controller and the Controller shall send a copy thereof to the applicant:~~

~~Provided that where an application for revocation under section 51(4) is based on a ground of non-use specified in section 51(1)(a) or (b), the proprietor shall file with the notice of opposition evidence of the use by him or her of the mark; and upon failure to do so, the Controller may dismiss the opposition and grant the application.~~

~~(4) The Controller may require the submission to him or her of any further evidence, statement or counter-statement within such time as he or she may decide. Subject to the proviso in paragraph (3) above, the Controller shall hear the parties, if so required, before deciding upon an application.~~

(3) (a) Within 3 months of the issue by the Controller to the proprietor of the copy of the application and the statement in the case of applications to the Controller for revocation under section 51 or for the rectification of an error or omission in the register under section 67, the proprietor may file a notice of opposition with the Controller and ~~the Controller shall send a copy thereof to the applicant.~~ shall send a copy thereof to the applicant

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(b) Where an application for revocation under section 51(4) is based on a ground of non-use specified in section 51(1)(a) or (b), the proprietor shall file with the notice of opposition evidence of the use by him or her of the mark, and upon failure to do so, the Controller may dismiss the opposition and grant the application.

(ba) where the proprietor has filed the notice of opposition, accompanied by evidence of use, the proprietor shall send a copy thereof to the applicant.<sup>†</sup>

(c) In the case of applications to the Controller for a declaration of invalidity under section 52, the provisions of Rules 19 to 25 shall apply mutatis mutandis.

(d) Notwithstanding paragraph (c) the Controller shall not declare a trade mark to be invalid merely because the proprietor fails to file a counter-statement.

(4) In the case of an application to the Controller for revocation under section 51 or for the rectification of an error or omission in the register under section 67, the Controller may require the submission to him or her of any further evidence, statement or counter-statement within such time as he or she may decide.

(5) Subject to paragraph (3)(b), the Controller shall hear the parties, if so required, before deciding upon an application.

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

*The amendment to Rule 41(3)(c) effected by paragraph (1) of the Trade Marks Amendment Rules 2010 shall not apply where an application for invalidity under section 52 was made before these Rules came into operation.\**

## **The Register**

### **Form of register.**

**42.** The register required to be kept by the Controller under section 66(1) may be kept in such form as the Controller may determine.

### **Entry in register of particulars of registered trade marks.**

**43.** Upon registration, there shall be entered in the register in respect of each trade mark the following particulars —

- (a) the date of registration as determined in accordance with section 45(3) (that is to say, the date of the filing of the application for registration);
- (b) the date of publication of the registration as provided for in section 45(5);
- (c) the priority date (if any) claimed pursuant to section 40 or 41;
- (d) the name and address of the proprietor;
- (e) the address for service furnished pursuant to Rule 10 above;
- (f) any disclaimer or limitation subject to which the mark is registered;
- (g) the goods or services in respect of which the mark is registered and their class or classes;
- (h) where the mark is a collective or certification mark, that fact; and
- (i) any consent pursuant to section 10(6) by the proprietor of an earlier trade mark or other earlier right to which that section relates.

### **Entry in register of particulars of registrable transactions.**

**44.** For the purpose of section 29 the following are the particulars to be entered in the register in relation to registrable transactions;

- (a) in the case of an assignment of a registered trade mark or any right in it —
  - (i) the name and address of the assignee,
  - (ii) the nature and date of the document upon which the interest of the assignee is based, and

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

(iii) where the assignment is in respect of any right in the mark, a description of the right assigned;

(b) in the case of the grant or assignment of a licence under a registered trade mark —

(i) the name and address of the licensee,

(ii) whether or not the licence is an exclusive or non-exclusive licence,

(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 any right in or under it —

(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 mark secured;

(d) in the case of the making by a personal representative of a vesting assent in relation to a registered trade mark or any right in or under it —

(i) the name and address of the person in whom the mark or any right in or under it vests by virtue of the assent,

(ii) the date of the assent; and

(iii) the nature of the vesting assent;

(e) in the case of an order of a court or other competent authority transferring a registered trade mark or any right in or under it —

(i) the name and address of the transferee,

(ii) the date and particulars of the order, and

(iii) where the transfer is in respect of a right in the mark, a description of the right transferred;

and in each case, there shall be entered the date on which the entry is made

(f) In the case of matters arising from the operation of law which affect the proprietorship of a registered trade mark or any right in it—

(i) the name and address of the new proprietor,

and

(ii) the nature and date of the document or instrument establishing the interest, right or title of the new proprietor.\*

### **Application to register transactions under section 29.**

~~45. (1) An application under section 29(1) shall —~~

~~(a) where the transaction is an assignment, be signed by or on behalf of the parties to the assignment;~~

~~(b) where the transaction falls into any of the other categories specified in section 29(2) (b) to (d), be signed by or on behalf of the grantor of the right.~~

~~(2) An application under section 29(1) shall be accompanied by the prescribed fee and by a certified copy of the instrument or document upon which the claim of the person whose title or interest is to be entered in the register is based.~~

~~(3) Where a transaction is effected by an instrument chargeable with duty, the applicant shall satisfy the Controller that the instrument has been duly stamped.~~

45. (1) An application under section 29(1) shall be in writing and accompanied by the prescribed fee and by a certified copy of the instrument or document upon which the claim of the person whose title or interest is to be entered in the register is based.

(2) The Controller shall not enter particulars of a transaction in the register unless he or she is satisfied that the instrument or document furnished in accordance with paragraph (1) authenticates the claim of the person whose title or interest is to be entered in the register.

(3) Where a transaction is effected by an instrument chargeable with duty, the applicant shall satisfy the Controller that the instrument has been duly stamped<sup>†</sup>.

### **Notices under section 31.**

46. (1) Notices given to the Controller in pursuance of section 31 shall comply with the requirements specified in Rule 45 in respect of applications under section 29(1).

(2) If a notice pursuant to section 31 relates to an assignment and it appears to the Controller from the notice and accompanying documents that the assignee should be recorded in the register as the proprietor of the trade mark in question, if registered, the entry to be made in the register in pursuance of Rule 43(d) shall be construed accordingly.

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

† S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

(3) If a notice pursuant to section 31 relates to a licence, a security interest, a vesting assent or an order of a court and it appears to the Controller in the case of any such transaction that it applies to the trade mark, if and when registered, the Controller shall, upon registration, enter the relevant particulars in the register.

**Public inspection of register.**

47. The register shall, on payment of the prescribed fee, be open to public inspection at the Office during the hours each day that the Office itself is open to the public.

**Supply of certified copies, &c.**

48. The Controller shall on request accompanied by the prescribed fee supply a certified copy or extract or uncertified copy or extract of any entry in the register.

**Request for change of name or address in register.**

49. (1) The Controller shall, on request accompanied by the prescribed fee, by the proprietor of a registered trade mark or a licensee, enter any change in the name or address of the person making the request as recorded in the register and the person concerned shall be informed when the change is made in the register.

(2) The Controller may at any time, on request by any person who has furnished an address for service under Rule 10, if the address is recorded in the register, change it and the person concerned shall be informed when the change is made in the register.

**Change of classification.**

50. (1) Where, in pursuance of section 68(1), the Controller proposes to amend existing entries in the register, the Controller shall give the proprietor of the mark written notice of his or her proposals and shall publish the proposals in the Journal.

(2) Notice of opposition to the proposals may be filed within three months of the date of publication of the proposals. A notice shall state the grounds of opposition and shall include in particular, any grounds based on matters to which section 68(3) relates.

(3) The Controller may require or admit any evidence which he or she considers relevant to the questions at issue and, if so requested by any opponent, give that opponent an opportunity to be heard thereon before deciding the matter.

(4) If no notice of opposition under paragraph (2) of this Rule is filed within the time specified, the Controller shall amend the register in accordance with the proposals published under paragraph (1).

**Registered Trade Mark Agents**

**Application for registration.**



~~51. (1) An application under section 86 for registration in the Register of Trade Mark Agents shall be made in writing to the Controller, shall be accompanied by the prescribed fee and shall contain:—~~

(1) An application under section 86 for entry in the Register of Trade Mark Agents shall be in writing in a form approved by the Controller and shall in the case of an individual, state—

~~(a) in case the applicant is an individual, the first names, surname, date of birth, nationality and private address of the individual, the name or style under which he or she carries on or proposes to carry on business as a registered trade mark agent (if other than his or her full name), and a statement of his or her educational and professional qualifications;~~

~~(b) in case the applicant is a partnership, the first names, surname, date of birth and nationality of each of the partners, the name or style under which the partnership carries on or proposes to carry on business as a registered trade mark agent, and a statement that all the partners are registered in the Register of Trade Mark Agents;~~

~~(a) in case the applicant is an individual, the full name, date of birth, nationality and private address of the individual and the name or style under which he or she proposes to carry on business as a registered trademark agent (if other than his or her full name);~~

~~(b) in case the applicant is a partnership, the full name, date of birth and nationality of each of the partners, the name or style under which the partnership proposes to carry on business as a registered trade mark agent, and a statement that all the partners are registered in the Register of Trade Mark Agents;~~

~~(c) the address at which the applicant carries on or applicant proposes to carry on business as a registered trade mark agent;~~

~~(d) in case the applicant is an individual who proposes to become a member of a partnership, the full name or style under which and the address at which the partnership carries on, or proposes to carry on, business as a registered trade mark agent.~~

~~(d) full particulars of the educational and professional qualifications of the person.~~

(a) the full name and home address of the person making the application and the name or style under which the person proposes to carry on business as a trade mark agent (if other than his or her full name),

(b) the address at which the person proposes to carry on business as a trade mark agent,

\* (c) the date of birth and the nationality of the person,

(d) full particulars of the education and professional qualifications of the person

and shall be accompanied by the prescribed fee as set out in item 33 of Schedule 1 of the Trade Marks Rules, 1996.

~~(2) Applications for registration in the Register of Trade Mark Agents shall be considered by a Board consisting of the Controller and other persons nominated for the purpose by the Minister.~~

(2) A body corporate, unincorporated body or partnership may be eligible to be entered in the Register of Trade Mark Agents if the Board established under Rule 51(5)(a) is satisfied that

(a) the body or partnership undertakes, *inter alia*, the provision of trade mark agent services including, but not limited to, the business of acting as agent for others for the purpose of:

(i) applying for or obtaining trade marks in the State or elsewhere; and/or

(ii) conducting proceedings before the Controller or the Court relating to applications for, or otherwise in connection with trade marks described above;

and

(b) at least one of its directors, partners, managers or employees is registered as a trade mark agent in the State.

~~(3) For the purposes of section 86 a person shall possess such educational and professional qualifications and be of such personal character as to satisfy the Board, after such inquiries, including such oral or written examination in the law and practice of trade marks, as the Board deems necessary, that such person is fit to practise as a registered trade mark agent.~~

(3) An application by a body corporate, unincorporated body or partnership for entry in the Register of Trade Mark Agents shall be in writing in a form approved by the Controller and shall state—

(a) the name of each director, manager, partner and employee of the body corporate, unincorporated body or partnership who is registered as a trade mark agent in the State,

(b) the date of birth and nationality of each director, manager, partner and employee who is registered as a trade mark agent in the State,

(c) the name or style under which the body corporate, unincorporated body or partnership proposes to carry on business as a trade mark agent,

(d) the address at which the body proposes to carry on business as a trade mark agent,

(e) full particulars of the education and professional qualifications of each director, manager, partner and employee who is registered as a trade mark agent in the State,

\*and shall be accompanied by:

(f) the prescribed fee as set out in item 33 of Schedule 1 of the Trade Marks Rules 1996,

(g) a copy of a certificate of incorporation, an entry in a relevant register or other proof of legal personality,

~~(4) The Board shall—~~

~~(a) fix the time and place for the conducting of any examination referred to in paragraph (3);~~

~~(b) appoint one or more examiners to conduct any such examination, and~~

~~(c) make such other arrangements as may be necessary in relation to any such examination.~~

(4) Subject to paragraph (7), a person shall not be entered in the Register of Trade Mark Agents unless—

(a) (i) he or she has sat a Leaving Certificate Examination conducted by the State Examinations Commission and attained, on the basis of the standards applied by that Commission at the time of the conducting thereof, results that constituted, at least, a pass at ordinary level in that examination, or

(ii) he or she has attained a qualification which, in the opinion of the Board, is of equivalent standing, and

(b) he or she has a satisfactory knowledge of the law and practice of trade marks.

~~(5) The consideration of applications for registration shall be carried out, and any necessary examination for that purpose shall be conducted, as expeditiously as is~~

~~practicable having regard to the number of applications received in the period concerned.\*~~

- (5) (a) An application for registration in the Register of Trade Mark Agents, in accordance with paragraphs (1) and (3) of Rule 51, shall be considered by a Board consisting of the person who is the Controller for the time being, and such other persons as may be nominated for the purpose by the Minister.
- (b) The Board shall,
- (i) consider the personal character and the fitness of the applicant to perform the professional duties of a trade mark agent in the light of the educational and professional qualifications set out in paragraph (4) of Rule 51, which the applicant possesses. If the Board is in doubt as to the fitness of the person making the application, it may require the person to undergo such written or oral examinations or tests in such subjects as it considers necessary;
- (ii) fix the time and place for the holding of any examination, shall appoint one or more examiners to conduct examinations or tests and shall make such other arrangements as may be necessary in relation to such tests or examinations;
- (iii) consider applications and hold any necessary tests or examinations as expeditiously as is practicable having regard to the number of applications received;
- (iv) in the case of an application by a body corporate, unincorporated body or partnership, consider the fitness of the body or partnership to carry on the business of a trade mark agent having regard to the educational and professional qualifications of the directors, managers, partners and employees, as set out in Rule 51(4), intending to provide trade mark agent services in the State. If the Board is in doubt as to the fitness of the body or partnership making the application to carry on the business of a trade mark agent, it may require some or all of the persons intending to provide trade mark agent services in the State to undergo such written or oral examinations or tests in such subjects as it considers necessary.

~~(6) Subject to paragraph (7), a person shall not be entered in the Register of Trade Mark Agents unless he or she has—~~

~~(a) (i) sat a Leaving Certificate Examination conducted by the State Examinations Commission and attained, on the basis of the standards applied by that Commission at the time of the conducting thereof,~~

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\* S.I. 621/2007 Trade Marks (Amendment) Rules 2007

\*S.I. 46/2016 Trade Marks (Amendment) Rules 2016

~~results that constituted, at least, a pass at ordinary level in that examination, or~~

~~\*~~

~~(ii) — attained a qualification which, in the opinion of the Board, is of equivalent standing, and~~

~~(b) — a satisfactory knowledge of the law and practice of trade marks.~~

(6) The Board may, for the purpose of establishing that an applicant possesses the required educational qualifications specified in paragraph (4), require that the applicant submit evidence to that effect.

~~(7) However, if it is otherwise satisfied, in light of the educational and professional qualifications which the applicant possesses, that the applicant is fit to perform the professional duties of a registered trade mark agent, the Board may waive the requirement in paragraph (6)(a) for the purpose of the consideration by it of any application.~~

(7) The Board may, however, waive or vary any of the requirements specified in subparagraphs (a) or (b) of paragraph (4) of Rule 51, if it is otherwise satisfied in the light of the educational and professional qualifications which the applicant possesses, that the applicant is fit to perform the professional duties of a trade mark agent.\*

~~51A. The following are prescribed for the purposes of paragraphs (a), (b) and (c), respectively, of section 85(4B) —~~

~~(a) evidence indicating that the person referred to in section 85(4B) is established in the Member State concerned for the purpose of pursuing the activities concerned,~~

~~(b) evidence of the applicable qualifications (within the meaning of section 85) being —~~

~~(i) evidence such as a copy of a diploma or certificate, or~~

~~(ii) other evidence of formal qualifications, awarded by the competent authority of the Member State concerned which indicates that the person referred to in section 85(4B) is qualified to act as a trade mark agent in that state, and~~

~~(c) in a case falling —~~

~~(i) within paragraph (c)(i), a copy of a passport, national identity card or other proof of nationality, or~~

~~(ii) within paragraph (c)(ii), to the extent that proof of the matters referred to in the following clauses is not provided by the evidence referred to in paragraph (a)—<sup>\*</sup>~~

~~(I) a copy of a certificate of incorporation, an entry in a relevant register or other proof of the possession of the required legal personality;~~

~~(II) a copy of a certificate or an entry in a relevant register specifying the location of the person's registered office, central administration or principal place of business or other proof of its location.~~

Evidence of qualifications, etc.

51A. The following are prescribed for the purposes of paragraphs (a), (b) and (c), respectively, of section 85(4B)—

(a) evidence indicating that the person referred to in section 85(4B) is established in an EEA state for the purpose of pursuing the activities concerned,

(b) evidence of the applicable qualifications (within the meaning of section 85) being—

(i) evidence such as a copy of a diploma or certificate, or

(ii) other evidence of formal qualifications, awarded by the competent authority of the EEA state concerned which indicates that the person referred to in section 85(4B) is qualified to act as a trade mark agent in that state, and

(c) in a case falling—

(i) within paragraph (c)(i), a copy of a passport, national identity card or other proof of nationality, or

(ii) within paragraph (c)(ii), to the extent that proof of the matters referred to in the following clauses is not provided by the evidence referred to in paragraph (a)-

(I) a copy of a certificate of incorporation, an entry in a relevant register or other proof of the possession of the required legal personality,

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\* S.I. 621/2007 Trade Marks (Amendment) Rules 2007

\*S.I. 46/2016 Trade Marks (Amendment) Rules 2016

(II) a copy of a certificate or an entry in a relevant register specifying the location of the person's registered office, central administration or principal place of business or other proof of its location.”

### **~~Controller to be informed of certain change of circumstances.~~**

~~51B. If, subsequent to the provision by a person to the Controller of such evidence as is referred to in section 85(4B), there is any material change of circumstances affecting the person's continuing to be qualified to act as a trade mark agent in the Member State concerned, the person shall, forthwith, notify the Controller in writing of that change of circumstances.\*~~

*“Controller to be informed of certain change of circumstances.*

51B. If, subsequent to the provision by a person to the Controller of such evidence as is referred to in section 85(4B), there is any material change of circumstances affecting the person's continuing to be qualified to act as a trade mark agent in, an EEA state, the person shall, forthwith, notify the Controller in writing of that change of circumstances.”

### **Proof of authorisation of agent may be required**

52. The Controller may by notice in writing sent to an agent require the agent to produce evidence of the agent's authority.

### **~~Entry in the Register of Trade Mark Agents.~~**

~~53. — (a) Subject to the provisions of section 86 and these Rules, an applicant shall, upon payment of the prescribed fee, be registered by the Controller in the Register of Trade Mark Agents.~~

~~(b) The entry in that register shall include the date of registration and, in case †the applicant is a partnership, the business name and address thereof and the full name and private address and particulars of the qualifications for entry of each of the partners or, in any other case, the full name, business name (if any), private and business address of the applicant together with particulars of the applicant's qualifications for entry, and such other particulars as the Controller considers desirable.~~

~~(c) Where the address of an applicant who has been entered in the register changes, the Controller shall record the new address on receipt of a written request from the person concerned.~~

*“Entry in the Register of Trade Mark Agents*

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\* S.I. 621/2007 Trade Marks (Amendment) Rules 2007

\*S.I. 46/2016 Trade Marks (Amendment) Rules 2016

\*S.I. 46/2016 Trade Marks (Amendment) Rules 2016

53. (a) Subject to the provisions of section 86 and these Rules, a person shall, upon payment of the prescribed fee, be registered by the Controller in the Register of Trade Mark Agents.

(b) The entry in that register shall include the date of registration and, in the case of a partnership, body corporate or unincorporated body, the business name and address thereof and the full name and home address of each director, manager, partner or employee registered as a trade mark agent in the State and in the case of an individual, the full name, the business name (if any), nationality and home and business address of the applicant together with such particulars of the applicant's qualifications for entry, and such other particulars as the Controller may require.

(c) Where the address of a person who has been entered in the register changes, the Controller shall record the new address on receipt of a written request from the person concerned.”\*

#### **Publication of entries in Register of Trade Mark Agents.**

54. The Controller shall publish in the Journal particulars of entries in the Register of Trade Mark Agents, and shall so publish before the end of March in each year a list in alphabetical order of the names entered in that register.

#### **Payment of annual registration fee.**

55. The prescribed annual fee in respect of each registration shall be payable before the 1st day of December in each year in respect of the following year, and in case it is not paid within one month from that date the Controller shall send to the registered trade mark agent at such agent's registered business address a notice in writing requiring such agent to pay the fee on or before a date to be mentioned in the notice, and in the case of failure to pay the fee within the time specified in the notice the Controller may cause the name of such agent to be erased from the Register of Trade Mark Agents.

#### **Request for removal from Register of Trade Mark Agents.**

56. Any person registered in the Register of Trade Mark Agents desiring to be removed therefrom shall make a request to that effect in writing to the Controller, who shall thereupon amend that Register accordingly.

#### **Notice to Controller of application to the Court under subsection (3) of section 88.**

57. Where a person applies to the Court under section 88(3) for cancellation of a decision by the Controller, the notice to the Controller of such application shall be in writing and shall be given at the time when the person so applies to the Court. The notice shall be accompanied by a copy of the application.

#### **Application for restoration to Register of Trade Marks Agents.**



58. (1) A person desiring to be restored to the Register of Trade Mark Agents under section 89(3) shall make an application to that effect in writing to the Controller.

(2) An application under section 89(4) shall be in writing.

**Controller may refuse to deal with certain agents.**

~~59. The Controller may refuse to recognise in respect of any business under the Act~~

~~(a) an individual whose name has been erased from and not restored to, or who is suspended from, the Register of Trade Mark Agents;~~

~~(b) a person who is found by the Minister to have been guilty of such conduct as would, in the case of an individual registered in that register, render such person liable to have his or her name erased from it on the ground of misconduct;~~

~~(c) a partnership or body corporate of which one of the partners or directors is a person whom the Controller could refuse to recognise under paragraph (a) or (b) of this Rule;~~

~~(d) any solicitor whose name has been struck off the roll of solicitors maintained under the Solicitors Acts, 1954 to 1994, and has not since been restored. restored;~~

~~(e) any person who no longer satisfies the requirements of section 85(4A);~~

~~(f) a person referred to in section 85(4B) who does not comply with Rule 51A or 51B.\*~~

*“Controller may refuse to deal with certain agents*

59. The Controller may refuse to recognise in respect of any business under the Act

(a) a person whose name has been erased from and not restored to, or who is suspended from, the Register of Trade Mark Agents;

(b) a person who is found by the Minister to have been guilty of such conduct as would, in the case of an individual registered in that register, render such person liable to have his or her name erased from it on the grounds of misconduct;

(c) any solicitor whose name has been struck off the roll of solicitors maintained under the Solicitors Acts, 1954 to 2011, and has not since been restored.

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\* S.I. 621/2007 Trade Marks (Amendment) Rules 2007

\*S.I. 46/2016 Trade Marks (Amendment) Rules 2016

- (d) any person who no longer satisfies the requirements of section 85(4A);
- (e) a person referred to in section 85(4B) who does not comply with Rule 51A or 51B.\*

## **Powers and Duties of Controller, Evidence and Costs**

### **Provision of information and inspection of documents.**

**60.** (1) In addition to any other information or documents which the Controller is under the Act or these Rules authorised or obliged to provide or to make available for inspection, the following provisions of this Rule shall apply in relation to information or documents relating to applications for registration of trademarks and registered trademarks.

(2) Following the filing of applications for registration, the Controller shall permit the inspection of copies of the applications as made in accordance with Rule 12(2) and of certificates filed under Rule 13.

(3) For the purpose of section 70(1), the following documents and information are hereby prescribed —

- (a) the documents in paragraph (2);
- (b) any written statements of the grounds of decisions of the Controller which have been prepared in respect of *inter partes* proceedings;
- (c) notices of opposition submitted under Rule 18;
- (d) applications under Rule 35(1);
- (e) notifications of surrender under Rule 36(1);
- (f) applications under Rule 41(1);
- (g) in relation to an application for registration, information as to whether, prior to its publication, a notice was given or a request made under section 44 and the outcome of any such notice or request;
- (h) any instrument or document submitted to the Controller under Rule 45(2) which is retained in the Office and which the person who submitted it agrees may be inspected;

(4) A request under section 70(1) shall be in writing. If the request is for the provision of information, it shall be accompanied by the prescribed fee.

(5) Where a request is for the inspection of documents, the Controller shall inform the person making it of the time, or times, at which the documents specified in the request

may be inspected at the Office. The prescribed fee for inspection of documents at the Office shall be paid at the time the inspection takes place.

## Hearing

**61.** (1) For the purposes of section 71 the Controller shall give the applicant, proprietor or party concerned notice that he or she may be heard.

~~(2) Save as otherwise provided by these Rules, an application for a hearing shall be made within ten days from the date of notice by the Controller under paragraph (1) and shall be accompanied by the prescribed fee.~~

~~(3) Upon receiving an application for a hearing the Controller shall notify any other party to the proceedings and if such a party desires to attend and be heard he or she shall inform the Controller accordingly within 10 days of notification and pay the prescribed fee. The Controller shall give the party or parties concerned not less than ten days' notice of the time of the hearing unless the parties consent to shorter notice.~~

(2) Save as otherwise provided by these Rules, an application for a hearing shall be made within 21 days from the date of notice by the Controller under paragraph (1) and shall be accompanied by the prescribed fee.

(3) Upon receiving an application for a hearing the Controller shall notify any other party to the proceedings and if such a party desires to attend and be heard he or she shall inform the Controller accordingly within 21 days of notification ~~and pay the prescribed fee.~~<sup>\*</sup> The Controller shall give the party or parties concerned not less than 10 days notice of the time of the hearing unless the parties consent to shorter notice.<sup>†</sup>

(4) A party who fails to attend a hearing appointed in accordance with this Rule may be treated as not desiring to be heard and the Controller may act accordingly.

(5) If in *inter partes* proceedings either party intends to refer at the hearing to any document not already mentioned in the proceedings, he or she shall give to the other party and to the Controller at least 7 days' notice of his or her intention, together with details of each document to which he or she intends to refer.

## Controller's power to require documents, information or evidence.

**62.** The Controller may, at any stage of any proceedings before him or her, direct that such documents, information or evidence as he or she may require shall be filed within such period as he or she may specify.

## General power to enlarge time.

**63.** ~~(1) The time or periods:~~

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\* S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

† S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

\* S.I. No. 533/2015 Trade Marks (Amendment) Rules 2015

~~(a) prescribed by these Rules, other than the times or periods prescribed by the rules mentioned in paragraph (2) below, or~~

~~(b) specified by the Controller for doing any act or taking any proceedings, may, at the request of the person or party concerned, be extended by the Controller if he or she thinks fit, upon such notice to any other person or party affected and upon such terms as he or she may direct.~~

63. (1) Subject to paragraphs (3) and (4), the time or periods:

(a) prescribed by these Rules, other than the time or periods prescribed by the Rules mentioned in paragraph (2) below, or

(b) specified by the Controller for doing any act or taking any proceedings,\*

may if he or she thinks fit, be extended by the Controller\*

~~(2) The Rules excepted from paragraph (1) of this Rule are Rule 10(3) (failure to file address for service), Rule 12(5) (time limit for payment of application fee), Rule 18(1) (time for filing opposition to registration), Rule 19(1) (time for filing counter-statement), Rule 39 (delayed renewal) and Rule 40 (restoration of registration).~~

(2) The Rules excepted from paragraph (1) of the Rules are Rule 10(3) (failure to file address for service), Rule 12(5) (time limit for payment of application fee), Rule 18(1) (time for filing opposition to registration), Rule 19(1) (time for filing counter-statement), Rule 25(3) (election by party to file written submissions in lieu of attending at a hearing), Rule 39 (delayed renewal) and Rule 40 (restoration of registration).

~~(3) Subject to paragraph (4) below, a request for extension under paragraph (1) above shall be made before the time or period in question has expired.~~

(3) A request for extension under paragraph (1) above shall be made before the time or period in question has expired and shall not be subject to the payment of a fee.

~~(4) If the request under paragraph (1) is made not later than two months after the expiry of the time or period in question the Controller may, at his or her discretion, extend the period or time if he or she is satisfied with the explanation for the delay in requesting the extension and it appears to him or her that any extension would not disadvantage any other person or party affected by it. A person availing of the provisions of this paragraph shall pay the prescribed fee at the time the request for extension is made.~~

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(4) If the request for extension under paragraph (1) is made –

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\* S.I. No. 533/2015 Trade Marks (Amendment) Rules 2015

\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

(a) not later than two months after the expiry of the time or period in question;  
and

(b) no previous request has been made under this paragraph, the Controller shall extend the period or time for such period or time as he or she may direct. A person availing of the provisions of this paragraph shall pay the prescribed fee at the time the request for extension is made.

(5) Where the period within which any party to proceedings before the Controller may file evidence under these Rules is to begin upon the expiry of any period in which any other party may file evidence and that other party notifies the Controller that he or she does not wish to file any, or any further, evidence the Controller may direct that the period within which the first mentioned party 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) Where any period of time specified in the Act or these Rules for the giving, making or filing of any notice, application or other document application, payment or other document expires on a day certified by the Controller as being one on which there is a general interruption or subsequent dislocation in the postal service of the State or in the service of the Patents Office<sup>\*</sup>, the period shall be extended to the first day following the end of the period of interruption or dislocation.~~

(6) (a) Where any period of time specified in the Act or these Rules or in rules made under any other enactment for the administration of which the Controller is responsible, for the giving, making or filing of any notice, application, payment, or other document expires on a day certified by the Controller as being one on which there is an interruption, failure or delay in the communication service, the period shall be extended to the first day following the end of the said period of interruption, failure or delay.

(b) In this Rule “communication service” means a service by which documents may be sent and delivered, and includes post and electronic communications.\*

#### **Costs.**

**64.** (1) In the event of an opposition to the registration of a mark being uncontested by the applicant the Controller, in deciding whether costs should be awarded to the opponent shall consider whether proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was lodged.

(2) The States prescribed for the purposes of section 72(2) are ~~the other Member States of the European Communities~~ any state which is a contracting party to the agreement on the European Economic Area signed at Oporto on 2 May 1992, as amended for the time being<sup>†</sup>.

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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

\* S.I. No. 533/2015 Trade Marks (Amendment) Rules 2015

## **Statutory Declarations**

### **Form of statutory declaration.**

**65.** (a) A statutory declaration required by the Act or these Rules or used in any proceedings before the Controller thereunder shall be headed in the matter to which it relates and shall be drawn up in the first person, and shall be divided into paragraphs consecutively numbered, and each paragraph shall so far as is possible be confined to one subject.

(b) Every statutory declaration shall state the description and true place of abode of the person making the declaration, and shall bear the name and address of the person leaving it and shall state on whose behalf it is left.

### **Statutory declaration made outside the State.**

**66.** A statutory declaration required by the Act or these Rules or used in any proceedings before the Controller thereunder shall, if made and subscribed outside the State, be made and subscribed before a person authorised by law to administer an oath in the country in which it is made.

### **Notice of seal of officer taking declaration to prove itself.**

**67.** Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person authorised to take a declaration, in testimony that the declaration was made and subscribed before such person, may be admitted by the Controller without proof of the genuineness of the seal or signature, or of the official character of the person or such person's authority to take the declaration.

## **Applications to and Orders of Court**

### **Application to Court.**

**68.** Every application to the Court under the Act in relation to any matter which is a function of the Controller shall be notified forthwith to the Controller by the applicant.

### **Order of Court.**

**69.** (a) Where an order has been made by the Court in any matter under the Act relating to a function of the Controller, the person in whose favour the order has been made, or such one of them if there is more than one, as the Controller may direct, shall forthwith leave at the Office an attested copy thereof.

(b) The register shall, if necessary, thereupon be rectified or altered by the Controller.

## **Miscellaneous**

### **Excluded days.**

**70.** Whenever the last day fixed by the Act, or by these Rules, for doing any act or thing at the Office falls on any of the days on which the Office is not open (which days shall be excluded days for the purposes of the Act and these Rules), it shall be lawful to do any such act or thing on the first day which is not an excluded day next following such excluded day, or days, if two or more of them occur consecutively.

### **Searches.**

**71.** On application, accompanied by payment of the prescribed fee, the Controller may cause a search to be made in respect of specified goods or services to ascertain whether or not at the date of the search any mark is on record which resembles a trade mark of which duplicate representations accompany the application, and shall cause the person making such request to be notified of the result of the search.

### **Pending applications for registration.**

**72.** (1) Where an application which was pending at the commencement of the Act is to be dealt with in accordance with the old law, the provisions of Rule 73 as regards the issue by the Controller of a request for payment of the fee for registration and the time within which such fee shall be paid shall apply to such application if the fee for registration had not been paid at commencement.

(2) (i) Where, in relation to an application to which paragraph (1) applies, the date of issue of the certificate of registration of the mark concerned is later than 2 months prior to the expiry of a period of seven years from the date of filing of that application, the period within which an application shall be made for renewal of the registration of the mark shall be the unexpired term of the seven year period or six weeks from the date of issue of the certificate of registration, whichever is the later.

(ii) In relation to an application to which subparagraph (i) applies, a notice of non-payment of a registration renewal fee shall be published by the Controller upon expiry of the appropriate period provided for in that subparagraph if the fee remains unpaid at the expiry of that period.

(iii) Subject to paragraph (ii), paragraphs (1) and (2) of Rule 39 shall apply.

### **Time limit for payment of fees required for registration.**

**73.** The prescribed period for the purposes of section 45(2) shall be two months from the date of issue by the Controller of a request for payment of the fee prescribed for registration.

### **Power to dispense with evidence, signature, &c.**

**74.** Where, under these Rules, any person is required to do any act or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Controller or at the Office, and it is shown to the satisfaction of the Controller that from any reasonable cause such person is unable to do such act or thing or to sign such document or to make such declaration or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Controller, upon the production of such evidence and subject to such terms as he or she thinks fit, to dispense with any such act or thing, signature, declaration, document or evidence.

**General power of amendment.**

**75.** Any document for the amending of which no special provision is made by the Act or these Rules may be amended, and any irregularity in procedure which in the opinion of the Controller may be obviated without detriment to the interests of any person may be corrected, if and on such terms and in such manner as the Controller thinks fit; provided that, without prejudice to the Controller's power to extend any time or periods under Rule 63 and except where such irregularity is attributable wholly or in part to an error, default or omission on the part of the Office, the Controller shall not direct that any period of time specified in the Act or Rules shall be altered.

**Partial assignments.**

**76.** (1) Where an assignment of a registered trade mark is limited so that it applies in relation to some only of the goods or services for which the mark is registered, Rule 45 shall apply in respect of an application to the Controller under section 29.

(2) The Controller shall enter in the register the relevant particulars in relation to the assignment.

(3) At the same time as the entry referred to in paragraph (2) is made, the Controller shall register the mark in the name of the assignee as proprietor in respect of the goods or services to which the assignment relates; and such registration shall, for the purposes of the Act and these Rules, be deemed to be an independent registration.

(4) Where an assignment of a registered trade mark is limited so that it applies in relation to use of the mark in a particular manner or in a particular locality, the provisions of paragraphs (1) to (3) shall, with the necessary modifications, apply in respect of any application under section 29; and, in addition, the following provisions shall apply:

(i) in the case of an assignment which is limited so that it applies in relation to use of a trade mark in a particular manner, the registration pursuant to paragraph (3) shall include the representation of the mark in the particular manner in which it is to be used;

(ii) in the case of an assignment which is limited so that it applies in relation to use of the mark in a particular locality, the registration pursuant to paragraph (3) shall have effect as if it resulted from an application for registration in



respect of which the applicant had agreed to a territorial limitation to the same effect under the provisions of section 17.

**Non-exclusive licence.**

**77.** (1) The Controller may, on application therefor to him or her in writing by a person and on payment of the prescribed fee, grant or refuse to grant to the person a licence (referred to in this rule as a non-exclusive licence) authorising the use by that person of part or all of the computerised trade mark data base open to public inspection.

(2) A non-exclusive licence shall be subject to such conditions and restrictions (if any) as the Controller may impose, at the time of the grant of the licence or subsequently, and specify in the licence or in another document given or sent to the holder of the licence.

(3) The Controller may, if he or she is satisfied that there has been a contravention of a condition or restriction of a non-exclusive licence, revoke the licence.

(4) A non-exclusive licence shall, unless previously revoked remain in force until such period as may be determined by the Controller.

**Form for conversion of pending application.**

**78.** A notice to the Controller under paragraph 9(3) of the Third Schedule to the Act, claiming to have the registrability of a mark determined in accordance with the provisions of this Act, shall be in Form No. 2.

**Forms.**

~~79. The forms mentioned in these Rules are those set out in Schedule 2.~~

~~79 (1) The forms mentioned in these Rules are those set out in Schedule 2 of the Trade Marks Rules 1996~~

~~(2) Any other forms required by the Controller to be used for the purpose of registration of a trade mark or any other proceedings before the Controller under the Act pursuant to Section 69 and any directions with respect to its use shall also be published.\*~~

~~(3) A requirement under this Rule to use a form as published is satisfied by the use either of a replica of that form or of a form which is acceptable to the Controller and complies with any directions as to the use of such form.\*~~

**Schedule 1**

**Fees Payable**

\*

*Rule 4*

1.	<del>On application to register a trade mark under section 37:</del>	60.00
2.	<del>Class fees—</del>	60.00
	<del>(i) for each class over one: _____</del>	60.00
	<del>(ii) for each additional class to which rule 14(3) refers: _____</del>	50.00
3.	<del>Application for a hearing: _____</del>	
4.	<del>Notice of opposition: (a) to the registration of a mark (rule 18); (b) to the regulations relating to a collective or certification trade mark (rule 31(4) or rule 33(4)(b)); or (c) to the alteration of a registered trade mark (rule 35): _____</del>	50.00
		30.00
5.	<del>On lodging a counterstatement (rule 19): _____</del>	
6.	<del>On request for a written statement on the grounds of a decision made by the Controller (rule 27(2)): _____</del>	150.00
7.	<del>On notice under section 44(1) or on request under section 44(3) to amend an application: _____</del>	30.00
		100.00
8.	<del>On request for division of application (rule 28): _____</del>	
9.	<del>On request to merge either applications or registrations (rule 29): _____</del>	100.00
10.	<del>On filing of regulations governing the use of a certification or collective mark (rule 31 or rule 33): _____</del>	100.00
11.	<del>On request to amend regulations governing the use of a certification or collective mark (rule 32 or rule 34): _____</del>	100.00
12.	<del>_____</del>	50.00
13.	<del>On notification of surrender of a registered trade mark (rule 36): _____</del>	200.00
	<del>Renewal of registration (rule 38): _____</del>	100.00
	<del>Class fee for each class over one: _____</del>	50.00
	<del>Additional fee for renewal of registration (rule 39(1)): _____</del>	
14.	<del>_____</del>	
	<del>On request for the restoration and renewal of a registration removed from the register for failure to renew (rule 40): _____</del>	100.00
15.	<del>_____</del>	
	<del>On request for revocation or invalidation of a registration, or</del>	100.00

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16.	<del>rectification of an error or omission in the register (rule 41): _____</del>	<del>50.00</del>
17.	<del>On application to record a registrable transaction (rule 45): _____</del>	<del>20.00</del>
18.	<del>On request for any of the matters referred to in rule 48: _____</del>	<del>50.00</del>
19.	<del>On request for alteration of a trade mark (rule 35) or for a change of name or address (rule 49): _____</del>	<del>20.00</del>
20.	<del>On request for information about an application or a registered trade mark (rule 60) for each item of information requested: _____</del>	<del>50.00</del>
21.	<del>On request for extension of time (rule 63(4)) for each month of extension beyond the prescribed period: _____</del>	
	<del>On application to register of a transaction under section 29 (rule 45) and on notice under section 31 (rule 46):</del>	<del>50.00</del>
	<del>(i) for one mark _____</del>	<del>5.00</del>
22.	<del>(ii) for each other mark included in the application _____</del>	<del>81.00</del>
	<del>For registration of a trade mark—</del>	<del>140.00</del>
23.	<del>(i) where the application is dealt with in accordance with the Act of 1963: _____</del>	<del>30.00</del>
	<del>(ii) in any other case: _____</del>	
24.	<del>On request for a search under rule 71 in respect of one class: _____</del>	
	<del>For making a search by means of the Patents Office's computerised trade mark search system, of the classified representations of trade mark data, kept at the Office on computer and open to public inspection, and for a print-out or output to electronic media or paper of the results of the search:</del>	<del>10.00</del>
	<del>(i) for each quarter of an hour or part thereof: _____</del>	<del>0.25</del>

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25.	<del>(ii) for each record in excess of 30 relating to a trade mark in the computer print-out to paper:</del>	<del>10.00</del>
26.	<del>For inspection of all or any part of the trade mark register available on computer: for each quarter of an hour of part thereof:</del>	<del>2.50</del>
27.	<del>For (a) inspection of the register or any document open to public inspection, or (b) for making a search amongst such classified representations of trade marks as are made available on paper for each quarter of an hour or part thereof:</del>	<del>20.00</del>
28.	<del>(i) for each trade mark record in respect of which data is requested other than as at (ii):</del>	<del>250.00</del>
29.	<del>(ii) for each trade mark record sought on the basis of time period or sequence number, by persons complying with conditions imposed by the Controller, the fees set out as at item 29.</del>	<del>100.00</del>
30.	<del>For access, by means of telephone or other data transmission media from outside the Patents Office, to the information specified in items 24 and 25 for the purpose of searching or inspecting such information and for a computer print-out of the results of the search, the appropriate fee set out in those items, and in addition:</del>	<del>0.25</del>
31.	<del>On application for an authorisation under rule 77</del>	<del>3.00</del>
32.	<del>and</del>	
30.	<del>(i) in the case of a search of the trademark database made available under rule 77 carried out by a person other than the licensee, an additional fee of 20 per cent. of any fee charged by the licence for the use of that database.</del>	<del>0.25</del>
31.	<del>(ii) in the case of such a search by the licensee, an additional fee of £7 in respect of the search of the first class and £1 in respect of each subsequent class.</del>	<del>3.00</del>
32.	<del></del>	<del></del>

	<del>For photocopying documents, per page: _____</del>	<del>50.00</del>
33.		200.00
34.	<del>For certifying office copies, manuscripts, typed printed or photographic, each: _____</del>	<del>100.00</del>
35.	<del>On giving notice under paragraph 9 of the Third Schedule to the Trade Marks Act, 1996 : _____</del>	<del>200.00</del>
	<del>On application for registration in the Register of Trade Mark Agents: _____</del>	
	<del>For registration in the Register of Trade Mark Agents:</del>	
	<del>Annual fee for renewal of registration as a trade mark agent payable before 1st December each year in respect of the following year:</del>	

Fees payable under the Trade Marks Act, 1996 (No. 6 of 1996), and the Trade Marks Rules, 1996 (S.I. No. 199 of 1996)

Reference Number (1)	Item (2)	Amount (3)
1.	On application to register a trade mark under section 37.	70.00
2.	Class fees -	
	(i) for each class over one.	70.00
	(ii) for each additional class to which Rule 14(3) refers.	70.00
	(i) On notification under Rule 25(2) or Rule 61(3) of intention to appear at a hearing.	Nil
	(ii) On application for a hearing (Rule 61(2))	60.00
4.	On giving notice of opposition –	
	(i) to the registration of a mark (Rule 18),	
	(ii) to the regulations relating to a collective or certification mark (Rule 31(4) or Rule 33(4)(b)), or	
	(iii) to the alteration of a registered trade mark (Rule 35).*	60.00

\* S.I. No. 482/2001-Patents, Trade Marks and Designs (Fees) Rules 2001

5.	On lodging a counter-statement (Rule 19).	Nil
6.	On request for a written statement of the grounds of a decision made by the Controller (Rule 27(2)).	190.00
7.	On notice under section 44(1) to restrict the goods or services covered by an application or on request under * section 44(3) to amend an application.	35.00
8.	On request for division of an application (Rule 28)	125.00
8.A	On request for division of a registration (Rule 28A)	125.00 <sup>†</sup>
9.	On request to merge separate applications or registrations (Rule 29).	125.00
10.	On filing of regulations governing the use of a collective or certification mark (Rule 31(1) or Rule 33(1)).	125.00
11.	On submission of amended regulations governing the use of a registered collective mark (Rule 32) or on request to amend regulations governing the use of a registered certification mark (Rule 34).	125.00
12.	On notification of surrender of a registered trade mark (Rule 36).	Nil
13.	(i) Renewal of registration (Rule 38). (ii) Class fee for each class over one (iii) Additional fee for renewal of registration (Rule 39(1)).	250.00 125.00 60.00
14.	Restoration fee payable upon a request under Rule 40(1).	125.00
15.	On application to the Controller (Rule 41) – (i) for revocation, or a declaration of invalidity, of a registration of a mark (ii) for rectification of an error or omission in the Register of Trade Marks kept under the Act of 1996.	125.00  6.00

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\* S.I. No. 482/2001-Patents, Trade Marks and Designs (Fees) Rules 2001

<sup>†</sup> S.I. No. 564 of 2018 Patents, Trade Marks and Designs (Fees) (Amendment) Rules 2018

16.	On request for a change in the Register of Trade Marks kept under the Act of 1996 of a name or address or both (Rule 49(1)) - for every mark in the request to which the change applies	6.00
17.	On request under Rule 48 for a certified copy or extract of any entry in the Register.	25.00
18.	On request for alteration of a trade mark (Rule 35).	60.00
19	On request for information about an application or a registered trade mark (section 70(1) and Rule 60)	
	For each item of information requested	6.00
20.	For extensions of time requested on the basis of Rule 63(4)	
	For each month of extension of the time or period referred to in Rule 63(1) requested.	30.00
21.	On application to register a transaction under section 29 (Rule 45) and on notice under section 31 (Rule 46)	60.00
	—	
	(i) for one mark.	6.00
	(ii) for each other mark included in the application or notice which is affected by the transaction	
22.	For registration of a trade mark –	
	(i) where the application is dealt with in accordance with the <u>Trade Marks Act, 1963 (No. 9 of 1963)</u> .	102.00 177.00
	(ii) in any other case.	
23.	On request for a search under Rule 71	35.00
24.	For making a search, by means of the Office's computerised trade mark search system, of the classified representations of trade mark data kept at the Office on computer and open to public inspection and for a print-out or output to electronic media or paper of the results of the search –	
	(i) for each quarter of an hour or part thereof. for each record in excess of 30 relating to a trade mark	
	(ii) in the computer print-out to paper	Nil

25.	For inspection of all or any part of the Register of Trade Marks kept under the Act of 1996 available on computer	Nil
26.	For each quarter of an hour or part thereof For (i) inspection of the Register of Trade Marks kept under the Act of 1996 or any document open to public inspection, or (ii) making a search amongst such classified representations of trade marks as are made available on paper	Nil
27.	For each quarter of an hour or part thereof For computer print-out or output to electronic media or * paper of trade mark data open to public inspection other than as at reference number 24 –  (i) for each trade mark record in respect of which data is requested other than as at (ii).  (ii) for each trade mark record sought on the basis of time period or sequence number by persons complying with conditions imposed by the Controller, the fees set out as at reference number 29	Nil
28.	For access, by means of telephone or other data transmission media from outside the Office, to the information specified at reference numbers 24 or 25 for the purpose of searching or inspecting such information and for a computer print-out of the results of the search, the appropriate fee set out at those reference numbers, and in addition.	Nil
29.	Licence (under Rule 77) authorising use of Patents Office computerised trade mark data base.	125.00

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\* S.I. No. 482/2001-Patents, Trade Marks and Designs (Fees) Rules 2001



	Each update of the Patents Office computerised trade mark data base.*	625.00 70.00
30.	For photocopying or reproduction of documents open to public inspection. Per page	0.30
31.	On request for certified copies, manuscripts, typed, printed or photographic, each	3.00
32.	On request for a certificate for use in connection with applications for registration abroad (Rule 5).	25.00
33.	On application for registration in the Register of Trade Marks Agents (Rule 51 (1))	250.00 50.00
33A	On application to sit the written examination in the law and practice of trade marks referred to in Rule 51(3).	200.00
33B	On application for a review of marks obtained in the written examination in the law and practice of trade marks <sup>†</sup>	70.00
34.	For registration in the Register of Trade Mark Agents (Rule 53 (a)).	125.00
35.	Annual fee for renewal of registration as a trade mark agent payable before the 1st day of December each year in respect of the following year (Rule 55).	250.00
36.	On request to the Controller for the removal from the Register of Trade Marks kept under the Act of 1996 of matter which has ceased to have effect.	Nil
<del>37.</del>	<del>Initial once-off connection fee in respect on on-line dial-in access for searches and inspections of the trade mark register<sup>‡</sup>.</del>	<del>2,500.00<sup>§</sup></del>
38.	On application pursuant to Rule 30(1) for the registration of a series of trade marks in a single	50.00

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\* S.I. No. 564 of 2018 Patents, Trade Marks and Designs (Fees) (Amendment) Rules 2018

<sup>†</sup> S.I. No. 30/2012- Patents, Trade Marks and Design (Fees) (Amendment) Rules 2012

<sup>‡</sup> S.I. No. 482/2001-Patents, Trade Marks and Designs (Fees) Rules 2001

<sup>§</sup> S.I. No. 564 of 2018 Patents, Trade Marks and Designs (Fees) (Amendment) Rules 2018

registration, for each trade mark in excess of 2 trade marks contained in the application \*

## Schedule 2

### FORMS

Form No. 1 Application for registration of a trade mark.

Form No. 2 Notice under paragraph 9(2) of the Third Schedule to the Trade Marks Act, 1996.

~~Form No. 1~~

~~Reference No. of Applicant or Authorised Agent.....~~

#### ~~APPLICATION FOR REGISTRATION OF A TRADE MARK~~

~~The Applicant(s) named herein hereby request(s) the registration of the trade mark, the representation of which is shown below, on the basis of the following information:~~

#### ~~1. Applicants(s)~~

~~Name:~~

~~Nationality and Address:~~

#### ~~2. Representation of Mark (not to exceed 8cm x 8cm):~~

~~Type of Mark (please indicate as appropriate if the present application relates to any of the following)~~

~~a collective mark~~

~~a certification mark~~

~~a series of trade marks~~

~~a three dimensional mark (If this is relevant any additional perspectives much be shown on separate sheets).~~

#### ~~3. Goods/Services~~

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\* S.I. No. 30/2012- Patents, Trade Marks and Design (Fees) (Amendment) Rules 2012

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~~The goods/services in respect of which registration of the mark represented at 2 is requested are:~~

~~Number of Class:~~

~~Goods/Services Description~~

~~4. Use of Mark (indicate as appropriate)~~

~~It is hereby declared, in relation to the goods/services indicated at 3,~~

~~that the mark to which this application relates is being used by the Applicant(s) or with the consent of the Applicant(s)~~

~~that the Applicant(s) indicated at 1 has/have a bona fide intention that the mark to which this application relates should be used in relation to the goods/services indicated at 3~~

~~5. Claim to priority (give the information below where a right to priority is claimed)~~

~~A right of priority is claimed on the basis of an earlier application for registration of the mark as represented in 2, which was filed in a country or territory within the meaning of section 40 or 41 in respect of the same, or some of, the goods/services to which the present application relates. The details of the earlier application are as follows:~~

~~Country/Territory~~

~~Date of Filing~~

~~6. Colour (complete where appropriate)~~

~~The mark, in use, is/will be in the colour(s).....(please specify) and the Applicant wishes that upon registration the Register shall contain an indication to that effect.~~

~~7. Disclaimer or Limitation (indicate and complete as appropriate)~~

~~Right to the exclusive use of the following element(s) of the mark is disclaimed:~~

~~The rights conferred by registration of the mark shall be subject to the following limitations:~~

~~8. Registered Trade Mark Agent Authorised~~

~~The following has been appointed to act on behalf of the Applicant(s) in all proceedings connected with this application for registration and any proceedings arising subsequent to registration.~~

~~Name of Agent~~

~~Address~~

~~9. Address for Service (indicate and complete as appropriate)~~

~~same as at 8~~

~~state hereunder the address where no Agent authorised to act~~

~~10. Fees:~~

~~The prescribed fees in the amount of £ .....are enclosed with this application.~~

~~11. Signature (the application may be signed by or on behalf of the Applicant(s) or by the Agent named at 8).~~

~~Date:~~

~~To: The Controller of Patents, Designs & Trade Marks,  
45 Merrion Square,  
Dublin 2.~~

FORM NO. 1

Reference No. of Applicant or Legal Representative.....
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**TRADE MARKS ACT 1996**

**APPLICATION FOR REGISTRATION OF A TRADE MARK**

**1. Applicant(s)**

Name	
Address	
Nationality	
Telephone:	
Email:*	

\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

**2. Legal Representative** (Trade Mark Agent, Solicitor or other qualified person)

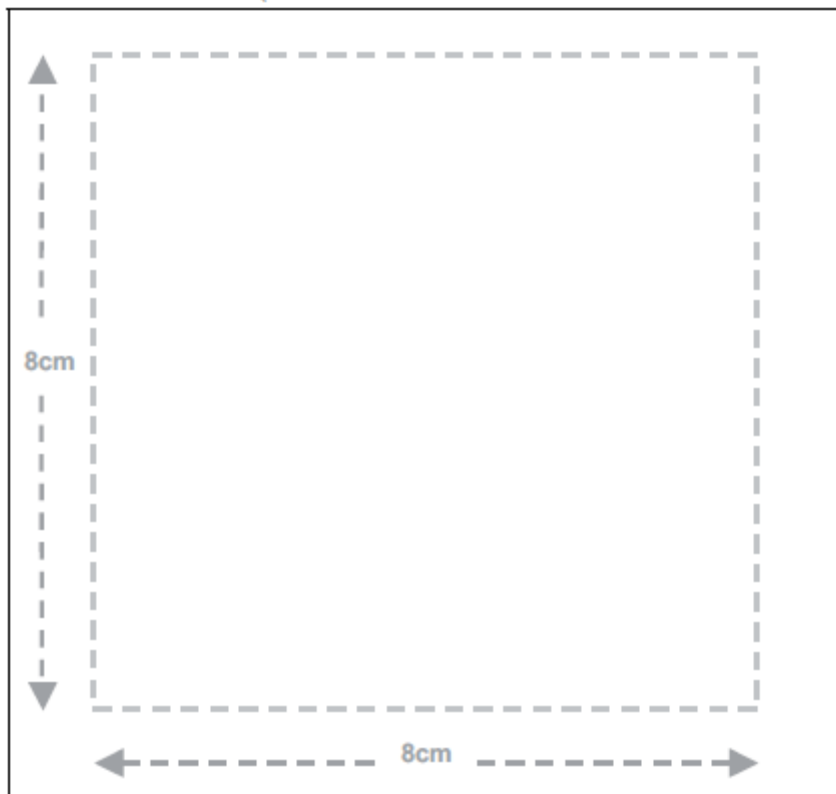
Name	
Address	
Telephone:	
Email:	

**3. Address for Service** (within the EEA, to which correspondence is to be sent)

<b>If different to address at 1 or 2.</b>
Address
Telephone:
Email:

Please tick box if you wish the Office to correspond with you by email in relation to this application	<input type="checkbox"/>
--	--------------------------

**4. Representation of Mark** (Illustration should not exceed 8cm x 8cm)



**5. Type of Mark**

Standard Trade Mark	
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Collective Trade Mark	
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Certification Trade Mark	
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Series of Trade Marks	
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3D Trade Mark	
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Other	
-------	--

**6. Colour**

The mark in use is/will be in the colours .....
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**7. Claim to a Right of Priority** (If you have applied to register the Trade Mark outside the State within the last 6 months enter here the relevant information where a right to priority is claimed)

<b>Country</b>	<b>Date</b>	<b>Number</b>
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**8. Goods and/or Services\***

<b>Nice Class No.</b>	<b>List here the goods and/or services for which registration is sought</b>

**9. Declaration**

I hereby declare that the Trade Mark to which this application relates is being used by, or with the consent of, the Applicant named herein in relation to the goods and/or services mentioned above or that the Applicant has a bona fide intention that it will be so used.

<b>Signature:</b>	
If a company, state the position within the company of the person signing	

<b>Name in BLOCK CAPITALS</b>	
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<b>Date:</b>	
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\* S.I. No. 410/2010 Trade Marks (Amendment) Rules 2010

**Form No. 2**

Notice under paragraph 9(2) of Third Schedule to the Trade Marks Act, 1996

1. Application No.
2. Name and address of Applicant(s)
3. Notice

The Applicant(s) named herein hereby gives/give notice to the Controller that the registrability of the mark, the subject of the application identified above, is to be determined in accordance with the provisions of the Trade Marks Act, 1996 .

It is acknowledged that this Notice is irrevocable.

Signed:

Date

**Schedule 3**

*Rule 11*

Rules Revoked

Statutory Instrument Number	Title
No. 268	Trade Marks Rules, 1963
No. 76	Trade Marks Rules, 1963 (Amendment) Rules, 1964
No. 35	Register of Trade Mark Agent Rules, 1964
No. 371	Register of Trade Mark Agent (Amendment) Rules, 1985
No. 313	Trade Marks Rules, 1963 (Amendment) Rules, 1992.

GIVEN under my Official Seal, this 27th day of June, 1996.



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RICHARD BRUTON

Minister for Enterprise and Employment

The fees prescribed by the foregoing Rules are hereby sanctioned by the Minister for Finance.

GIVEN under the Official Seal of the Minister for Finance, this 27th day of June, 1996.

RUAIRI QUINN

Minister for Finance