



Statutory Rules 1996 No. 3<sup>1</sup>

**Trade Marks Regulations<sup>2</sup> (Amendment)**

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Trade Marks Act 1995*.

Dated 24 January 1996.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

C. SCHACHT  
Minister for Small Business, Customs and Construction

**1. Commencement**

1.1 Regulation 9 is taken to have commenced on 1 January 1996.

[NOTE: The remainder of these Regulations commence on gazettal: see *Acts Interpretation Act 1901*, s. 48.]

**2. Amendment**

2.1 The Trade Marks Regulations are amended as set out in these Regulations.

**3. Regulation 9.1 (Applications for removal etc.)**

3.1 Subparagraph 9.1 (b) (ii):

Omit the subparagraph, substitute:

“(ii) setting out the findings of that inquiry that support the grounds referred to in subsection 92 (4) of the Act in reliance on which the application is made.”.

**4. Regulation 22.1 (Application of the Act)**

4.1 Add at the end:

“(3) If the particulars of an application for the registration of a trade mark have been published before the commencement of these Regulations:

- (a) in the *Official Journal*; or
- (b) by listing in a computer database maintained by the Trade Marks Office; or
- (c) by making a record of the application available, in electronic or other form, in each of the sub-offices of the Trade Marks Office;

then, for the purposes of subsection 45 (2), paragraph 64 (a), subsection 65 (1) and paragraph 83 (1) (a) of the Act, those particulars are taken to have been published under section 30 of the Act.”.

**5. Regulation 22.4 (Certain deferments continue)**

5.1 Omit “subparagraph 4.13 (1) (b) (i)”, substitute “subregulation 4.13 (1)”.

5.2 Add at the end:

“(2) Subject to paragraph 4.14 (2) (a), the deferment period for an application referred to in subregulation (1) ends:

- (a) when the Registrar is reasonably satisfied that there are no longer grounds for rejecting the application under subsection 44 (1) or (2) of the Act because of another trade mark in respect of which an application for registration has been made by another person; or
- (b) if the period does not end in accordance with paragraph (a)—when proceedings in respect of the application for registration of the other trade mark are finalised.

“(3) If acceptance of the application is deferred as a result of the operation of more than 1 provision of these Regulations, the deferment period ends in accordance with whichever of the provisions of:

- (a) paragraph (2) (b); and
- (b) subregulation 4.14 (3), other than paragraph 4.14 (3) (a);

under which the deferment period ends later or last, as the case requires.”.

## 6. New regulation 22.6

6.1 After regulation 22.5, insert:

### Deferment of acceptance—certain applications

“22.6 If:

- (a) an applicant requests the Registrar to defer acceptance of an application for registration of a trade mark because of another trade mark that is registered by another person; and
- (b) the applicant has lodged an application under section 23 of the *Trade Marks Act 1955* in respect of the other trade mark;

then:

- (c) regulation 4.13 applies in relation to the first-mentioned application as if the reference in subparagraph 4.13 (1) (c) (iii) to an application under section 92 were a reference to an application under section 23 of the *Trade Marks Act 1955*; and
- (d) regulation 4.14 applies in relation to that application as if the reference in paragraph 4.14 (3) (c) to Part 9 of the *Trade Marks Act 1995* were a reference to section 23 of the *Trade Marks Act 1955*.”.

## 7. Schedule 6 (Prescribed offices)

7.1 Add at the end:

“13 Administrative Service Officer, Class 2

14 Administrative Service Officer, Class 1”.

## 8. Schedule 9 (Fees)

8.1 Item 2:

Omit the item, substitute:

“2

Filing a divisional application under subsection 45 (1) or 242 (2) or (3) of the Act

\$150 for each class”.

8.2 Item 5:

Omit the item, substitute:

“5

Request for amendment under section 64 or 65, or application for amendment under section 247, of the Act to include an additional prescribed class of goods or services in an application

\$150 for each class”.

8.3 Item 13:

Omit “Registration”, substitute “Single registration”.



- 8.4 Item 14:  
Omit “registration”, substitute “a single registration”.
- 8.5 Item 20:  
Omit the item, substitute:

“20

Attendance at a hearing under regulation 21.15:

- (a) of an application for an extension of time
- (b) in relation to any other matter

\$300 less any amount paid under item 19 in relation to the hearing

\$500 less any amount paid under item 19 in relation to the hearing”.

#### **9. Schedule 10 (Convention countries)**

- 9.1 After “Argentina”, insert “Armenia”.

#### **NOTES**

1. Notified in the *Commonwealth of Australia Gazette* on 25 January 1996.
2. Statutory Rules 1995 No. 341.