



# TRADE MARKS RULES, 1963.

STATUTORY INSTRUMENTS.

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**S.I. No. 268 of 1963.**

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## TRADE MARKS RULES, 1963.

I, JOHN LYNCH, Minister for Industry and Commerce, in exercise of the powers conferred on me by section 3 of the Trade Marks Act, 1963 (No. 9 of 1963), and in exercise, with the sanction of the Minister for Finance, of the powers conferred on me by section 4 of that Act, hereby make the following rules:

### GENERAL.

1. These Rules may be cited as the Trade Marks Rules, 1963.

2.—

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

“the Act” means the Trade Marks Act, 1963 (No. 9 of 1963);

“agent” means an agent duly authorised in accordance with these Rules;

“the Journal” means the Official Journal of Industrial and Commercial Property;

“the Office” means the Industrial and Commercial Property Registration Office, situate at 45 Merrion Square, Dublin 2;

“Schedule” means one of the Schedules to these Rules;

“section” means a section of the Act;

“specification” means the designation of goods in respect of which a trade mark, or a registered user of 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.

3. These Rules shall come into operation on such date as the Minister appoints under section 1 for the commencement of the Act.

4. The fees to be paid in relation to trade marks shall be those specified in Schedule I.

5.—

(1) Save as provided in paragraph (2) or (3) of this Rule, payment of a fee or fees by any person shall be made—

(a) by lodgment of the sum at any branch in the State of the Bank of Ireland to the credit of the Paymaster-General’s Supply Account at the Bank of Ireland, College Green, Dublin 2, accompanied by a Receivable Order in the form to be obtained at the Office, the lower part of which, when

[...]

### MATTERS NOT REGISTRABLE.

12.—

(1) The Controller may refuse to accept any application for the registration of a mark upon which any of the following appears:—

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

(b) the word “Shamrock”, or the device of a shamrock, in relation to goods other than goods expressly of Irish origin;

(c) of the word “Caighdeán”, “Standard” or any other word or any initials precluded from registration by section 31 of the Industrial Research and Standards Act, 1961 (No. 20 of 1961);

(d) the heraldic emblem of the red cross on a white ground formed by reversing the Federal colours of Switzerland, or the words “Cross Dearg”, “Cros na Geinébhe”, “Red Cross” or “Geneva Cross”, or any other emblem or words or any design the use or display of which is restricted by sections 4 or 5 of the Red Cross Act, 1938 (No. 32 of 1938), as amended by the Red Cross Act, 1954 (No. 28 of 1954).

(2) Where there appears in a mark, the registration of which is applied for, a representation of a cross (other than a cross to which the provisions of the last foregoing subparagraph apply) in any colour, the Controller may require the applicant as a condition of acceptance to undertake not to use the cross device in red, or in white on a red ground or in silver on a red ground, or in any similar colour or colours.

13. Where a mark includes the badge, device, emblem or flag of any State, city, borough, town, place, body corporate, society, institution or person, the Controller may, before registering the mark, require the applicant to furnish him with a consent to the use thereof from such authority as he deems entitled to give the consent.

14. Where a mark includes the name or representation of a living person or of a person deceased within fifty years, the Controller may, before registering the mark, require the consent of the person or of his legal representative.

15.—

(1) Where a mark includes the name or description of any goods, the Controller may refuse to register the mark in respect of any goods other than the goods so named or described.

(2) Where a mark includes the name or description of any goods and that name or description in use varies, the Controller may permit the registration of the mark for those and other goods, and in that case the applicant shall state in writing that the name or description will be varied when the mark is used upon goods covered by the specification other than the named or described goods.

#### APPLICATION FOR PRELIMINARY ADVICE AND NOTICE OF WITHDRAWAL UNDER SECTION 48.

16.—

(1) A person who proposes to apply for the registration of a trade mark in Part A or Part B of the register in respect of any goods and who is desirous of obtaining, under section 48, the Controller’s advice as to whether the trade mark appears to the Controller *prima facie* to be inherently adapted to distinguish within the meaning of section 17, or capable of distinguishing within the meaning of section 18, as the case may be, in relation to those goods shall make an application therefor in writing to the Controller. The application shall state the goods and shall be accompanied by the prescribed fee or evidence of payment thereof, together with representations of the mark in triplicate. In case the goods so stated are in different classes in Schedule II a separate fee shall be paid in respect of each different classes concerned.

(2) A notice of withdrawal of an application for the registration of a trade mark given under section 48 (3), for the purpose of obtaining repayment of any fee paid on the filing of the application, shall be in writing and shall be given within two months from the date of the notice of the Controller’s objection.

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

17.—

(1) An application for the registration of a trade mark shall be duly signed and dated by the applicant or his authorised agent and shall be accompanied by the prescribed fee or evidence of payment thereof, and shall contain:—

(a) in case the application is for registration of a certification trade mark or a defensive trade mark, a statement to the relevant effect;

- (b) in case the applicant is an individual, the Christian names, surname and nationality of the individual;
  - (c) in case the applicant is a partnership, the Christian names, surname and nationality of each of the partners;
  - (d) in case the applicant is a body corporate, the name of the body and a statement of its kind and country of incorporation;
  - (e) the trade or business address, trading style (if any), and (where necessary) the address for service within the State, of the applicant;
  - (f) a statement of the goods in respect of which registration is desired (being, except in the case of a defensive trade mark, the goods in relation to which the trade mark is in use or is definitely intended to be used) and of the class in which those goods are classified under Schedule II;
  - (g) in case an agent has been authorised, the full name and address of the agent.
- (2) An application for the registration of a trade mark other than a certification or defensive trade mark shall, in addition to the particulars specified in paragraph (1), contain—
- (a) a brief indication of the trade or business of the applicant;
  - (b) a statement that the applicant claims to be the proprietor of the mark;
  - (c) a statement whether the application is for registration in Part A or Part B of the register;
  - (d) in case priority is claimed by virtue of an earlier application in a foreign state to which the provisions of section 70 have been applied, the date of the earliest application for registration in any such foreign state.
- (3) An application for the registration of a trade mark as a defensive trade mark shall, in addition to the particulars specified in paragraph (1), contain—
- (a) a brief indication of the trade or business of the applicant;
  - (b) particulars of every existing registration of the same trade mark in the name of the applicant, including the registration number and the specification of goods in respect of which the trade mark is so registered;
  - (c) a statement to the effect that, to the best of the applicant's knowledge and belief, the word constituting the mark is invented.
- (4) In the case of an application for registration of a trade mark in respect of all the goods included in a class in Schedule II, or in respect of a large variety of goods, the Controller may refuse to accept the application unless he is satisfied that the specification is justified by the use of the mark which the applicant has made, or intends to make if and when it is registered.

18. If priority of date is claimed for an application under the provisions of section 70 in respect of an earlier application in a foreign state referred to in subsection (1) of that section, the application shall be made within six months from the date on which the earlier application was made or is deemed to have been made in the foreign state. The applicant shall furnish a certificate by the proper authority of the foreign state, or such other verification which satisfies the Controller, of the application first made or deemed to have been first made in any such foreign state.

19.—

- (1) An application made under Rule 17 shall be accompanied by—
  - (a) a representation of the mark on or affixed to a sheet of strong white paper of foolscap size, or 29 to 34 cm. by 20 to 22cm., headed "Representation of Trade Mark accompanying application by (*here insert full name, trading style (if any) and address of applicant*) dated ..... 19....." and duly signed at the foot by the applicant or his authorised agent, and
  - (b) three additional copies of the representation and particulars above mentioned on similar sheets headed "Additional Representation of Trade Mark".
- (2) In the case of an application for the registration of trade marks as a series, the representation mentioned in paragraph (1) shall include each mark of the series.
- (3) The Controller, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

(4) Where a mark contains a word in a foreign language or in foreign characters, the Controller may require a translation or transliteration (or both) of the word.

(5) If in size the representation exceeds the space available on the sheet it may be mounted on linen or other flexible and durable material and attached in part to the sheet and the surplus portion folded so as to come within the limits of the sheet. If this course is impracticable the representation may be furnished in a reduced scale or otherwise as the Controller deems most convenient.

20.—

(1) This Rule applies where an applicant claims under paragraph (b) of section 17 (3), paragraph (b) of section 18 (2), section 20 (2) or paragraph (b) of section 45 (2), that a mark is qualified for registration by reason of its use prior to the date of the application for registration.

(2) The Controller may require the applicant to furnish a statutory declaration setting out the facts as to the use of the mark upon which the applicant relies, including all or any of the following:—

- (a) the date upon which the applicant commenced to use the mark in the State and from which he has continued so to use the mark,
- (b) the area in the State in which the mark has been so used,
- (c) the particular goods in relation to which the applicant has so used the mark,
- (d) the amount spent in advertising or otherwise making the mark known in the State, and
- (e) the turnover of such goods sold in the State under the mark.

(3) Specimen labels or other evidence showing the manner in which the mark has been used shall be exhibited by the person making the statutory declaration, if required by the Controller.

(4) The Controller may also require the filing of such additional evidence by way of statutory declaration as he considers necessary to establish the fact, if so claimed by the applicant, that the mark, by reason of its use, is adapted to distinguish or is capable of distinguishing (as the case may be) the goods in respect of which registration is desired.

21. Applications for the registration of the same mark in respect of goods which are classified in different classes in Schedule II shall, as respects each class, be treated as separate and distinct applications.

## PROCEDURE ON RECEIPT OF APPLICATION TO REGISTER A TRADE MARK.

22.—

(1) Upon receipt of an application for the registration of a trade mark in respect of any goods, the Controller shall cause a search to be made amongst the registered marks and the marks at the time included in the pending applications, for the purpose of ascertaining whether there is on record in respect of the same goods or description of goods any mark identical with the mark in respect of which the application is being made, or so nearly resembling it as to render it likely to deceive or cause confusion.

(2) The Controller may cause a search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

23. After a search under Rule 22 has been made and after the consideration of an application and of any evidence of use or distinctiveness or any other matter which the applicant may have furnished or may have been required to furnish, the Controller may accept the application absolutely or object to it or he may express his willingness to accept the application subject to such amendments, modifications, conditions or limitations as he may think right to impose.

24.—

(1) If the Controller objects to an application, he shall notify the applicant in writing, and unless within two months from the date of the notification the applicant applies for a hearing or makes a considered reply in writing to the objection, he shall be deemed to have abandoned his application.

(2) If after the receipt of a considered reply, the Controller continues to object to the application, he shall notify the applicant in writing and appoint a further period within which the applicant may apply for



a hearing. If the applicant does not, within the period appointed, apply for a hearing, he shall be deemed to have abandoned his application.

25.—

(1) If the Controller is willing to accept an application subject to any amendments, modifications, conditions or limitations, he shall notify the applicant in writing.

(2) If the applicant objects to an amendment, modification, condition or limitation, he shall within two months from the date of the notification referred to in paragraph (1) apply for a hearing or communicate his considered objection thereto in writing, and if he does not do so he shall be deemed to have abandoned his application.

(3) If after the receipt of a considered objection by the applicant, the Controller maintains his requirements as to amendments, modifications, conditions or limitations, he shall notify the applicant in writing and shall appoint a further period within which the applicant may apply for a hearing. If the applicant does not apply for a hearing within the period appointed, he shall be deemed to have abandoned his application.

(4) If the applicant does not object to amendments, modifications, conditions or limitations required by the Controller, he shall notify the Controller in writing, and his application shall be dealt with accordingly. If the applicant does not so notify the Controller within two months from the date of the notification referred to in paragraph (1), he shall be deemed to have abandoned his application.

26. The applicant shall be notified in writing of the decision of the Controller on any hearing applied for under Rule 24 or Rule 25, and if he is dissatisfied with the decision he may, within one month from the date of such notification, on payment of the prescribed fee, make an application requiring the Controller to state in writing the grounds of his decision and the materials used by him in arriving thereat.

27. Subject to the provisions of section 22, the Controller may call on an applicant to make in writing such disclaimer as the Controller may think fit, in order that the public generally may understand what the applicant's rights, if his mark is registered, will be.

### DEFENSIVE TRADE MARKS.

28.—

(1) An application for the registration of a defensive trade mark under section 35 shall be made in accordance with Rule 17 and shall be accompanied by a statement of case setting forth full particulars of the facts on which the applicant relies in support of his application, verified by a statutory declaration made by the applicant or some other person approved for the purpose by the Controller.

(2) The applicant may send with the statutory declaration, or subsequently, such other evidence as he may desire to furnish, whether after request made by the Controller or otherwise, and the Controller shall consider the whole of the evidence before deciding on the application.

(3) In all other respects, and where they are appropriate and it is not otherwise stated, these Rules shall apply in relation to applications for registration of defensive trade marks as they apply in relation to applications for the registration of ordinary trade marks.

### CERTIFICATION TRADE MARKS.

29. An application for the registration of a certification trade mark under section 45 shall be made in accordance with Rule 17 and shall be in duplicate.

30.—

(1) These Rules shall have effect in relation to an application for the registration of a certification trade mark as they have effect in relation to an application for the registration of an ordinary trade mark, except that for references therein to acceptance of an application there shall be substituted references to

authorisation to proceed with the application; Provided that an applicant who does not reply or does not apply for a hearing, in accordance with Rule 24 or Rule 25, shall not be deemed to have abandoned his application.

(2) The address of an applicant to register a certification trade mark shall be deemed to be a trade or business address for all the purposes for which such an address is required by these Rules.

31.—

(1) The applicant for registration of a certification trade mark shall send to the Controller, either with the application or when required by the Controller, a statement of case setting out the grounds on which he relies in support of his application together with draft regulations for governing the use of the mark, all being in duplicate.

(2) The Controller may communicate to the applicant any observations he may have to make, on the sufficiency of the statement of case or the suitability of the draft regulations, and the applicant may modify either or both of those documents.

32. If the Controller decides to authorise an application for the registration of a certification trade mark to proceed, he shall report to the Minister thereon, and the Minister may at any time call for such evidence, if any, as he thinks fit, and shall, if required, hear the applicant and the Controller before giving a direction under subparagraph (5) of paragraph 1 of the First Schedule to the Act.

#### ADVERTISEMENT OF APPLICATION.

33.—

(1) An application for the registration of a trade mark required or permitted to be advertised by section 26 (1) or subparagraph (1) of paragraph 2 of the First Schedule to the Act shall be advertised in the Journal during such times and in such manner as the Controller may direct. In the case of an application with which the Controller proceeds after the applicant has lodged the written consent of another applicant or the registered proprietor of another trade mark to the proposed registration, a reference to the consent shall appear in the advertisement.

(2) If no representation of the trade mark is included in the advertisement of the application, the Controller shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for inspection.

(3) Advertisements under sections 26 (11), 43 (2) and 43 (3) shall, subject to the appropriate modifications, be effected in the same manner as advertisements relating to an application for registration.

34.—

(1) For the purposes of an advertisement the applicant shall furnish such block or blocks corresponding exactly with the representation of the mark, or of the mark as modified, and such information or such other means of advertising the mark or series of marks as the Controller may require.

(2) If the trade mark is limited in whole or in part to any colour or colours the block shall as far as possible indicate those colours, preferably by means of the Heraldic Convention as shown in Schedule III. In using the Heraldic Convention intermediate colours should, as far as possible be shown by increasing or diminishing the intensity of the lines.

(3) The block shall be of a scale sufficiently large to reproduce the mark faithfully, and may be a line block (or electrotype or stereotype produced therefrom) or wood block or similar block satisfying the Controller. The block shall not, unless the Controller is satisfied as to the necessity, exceed five and a half inches in breadth and seven and a half inches in depth, and if this space should be insufficient to reproduce the mark clearly the Controller shall decide in what manner the mark is to be advertised.

(4) When the block exceeds two inches in breadth or in depth, the prescribed fee in respect of the excess shall be payable for the advertisement.

## OPPOSITION TO REGISTRATION OF A TRADE MARK.

35.—

(1) The time from the date of the advertisement within which a person may give notice of opposition under section 26 to an application for registration of a trade mark shall be one month.

(2) The notice of opposition shall be accompanied by a duplicate thereof and by the prescribed fee or evidence of payment thereof, and shall include a statement of the grounds of opposition and, in case the registration is opposed on the ground of resemblance of the mark to a registered trade mark, the notice shall indicate the registration number of the registered trade mark and the number of the Journal in which it has been advertised.

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

36.—

(1) Within two months from the receipt by him of a duplicate notice of opposition, an applicant shall, if desirous of contesting the opposition, send to the Controller a counter-statement in writing setting out the grounds on which he relies as supporting his application and what facts, if any, alleged in the notice of opposition, he admits.

(2) The counter-statement shall be accompanied by a duplicate thereof and by the prescribed fee or evidence of payment thereof.

(3) The Controller shall on receipt of a counter-statement forthwith send the duplicate of the counter-statement to the opponent.

37. Within two months from the receipt by him of a duplicate of a counter-statement, an opponent shall leave with the Controller such evidence by way of statutory declaration as he desires to adduce in support of his opposition and shall deliver to the applicant a copy thereof.

38. If an opponent does not leave evidence under Rule 37, he shall, unless the Controller otherwise directs, be deemed to have abandoned his opposition but, if he does leave such evidence, then, within two months from the receipt of the copy thereof, the applicant shall leave with the Controller such evidence by way of statutory declaration as he desires to adduce in support of his application and shall deliver to the opponent a copy thereof.

39.—

(1) Within one month from the receipt by the opponent of a copy of the evidence left with the Controller under Rule 38, the opponent may leave with the Controller evidence by way of statutory declaration in reply, and shall deliver to the applicant a copy thereof.

(2) Evidence left with the Controller under this Rule shall be confined to matters strictly in reply.

40. No further evidence shall be left by the applicant or opponent but, in any proceedings before the Controller, he may at any time if he thinks fit give leave to either the applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as he may think fit.

41.—

(1) Where there are exhibits to declarations filed in an opposition, a copy or impression of such exhibits shall be sent to the other party on his request, or, if such copy or impression cannot conveniently be furnished, the originals shall be left with the Controller for inspection by the party concerned. In the event of a dispute arising between the parties as to whether a copy or impression can conveniently be furnished, the matter shall be determined by the Controller.

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

42.—

(1) Upon completion of the evidence the Controller shall give notice to the parties of a date when he will hear the arguments in the case. Such appointment shall be for a date at least ten days after the date of the notice, unless the parties consent to a shorter notice.

(2) Within seven days from the 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.

43. An application under section 26 (6) for a written statement of the grounds of a decision of the Controller shall be made to the Controller within one month from the date of notification of the decision and shall be accompanied by the prescribed fee, or evidence of payment thereof.

44. Where in opposition proceedings any extension of time is granted to any party, the Controller may thereafter, if he thinks fit, without giving the said party a hearing, grant any reasonable extension of time to any other party in which to take any subsequent step.

45.—

(1) Where a party giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice neither resides nor carries on business in the State, the Controller may require him to give security for the costs of the proceedings before the Controller, in such form and for such amount as the Controller thinks fit.

(2) The Controller may at any stage in opposition proceedings require a party to give further security for costs.

46. In the event of an opposition 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.

47. Any person may, within one month from the date of any advertisement in the Journal of an application for the registration of a certification trade mark, send notice in writing to the Controller of opposition under subparagraph (1) of paragraph 2 of the First Schedule to the Act, and Rules 35 to 46 shall apply, subject to the appropriate modifications, to the further proceedings thereon. Any such notice shall be in duplicate and shall be accompanied by the prescribed fee or evidence of payment thereof. In case a notice of opposition relates to any of the matters referred to in subparagraph (5) of paragraph 1 of the First Schedule to the Act, the Controller shall transmit the notice to the Minister for his decision. In any case of doubt any party may apply to the Controller for directions.

48. Where registration of a trade mark has not been completed within twelve months from the date of the application by reason of default on the part of the applicant, the Controller shall send to the applicant a notice in writing in the form in Part I of Schedule IV of such non-completion and, if the applicant has an agent, shall send a duplicate of such notice to the agent. If after fourteen days from the date when such notice was sent, or such further time as the Controller may allow, the registration is not completed, the application shall be treated as abandoned.

## ENTRY OF TRADE MARK IN THE REGISTER.

49.—

(1) As soon as may be after the expiration of one month from the date of the advertisement in the Journal of any application for the registration of a trade mark, the Controller shall, subject to section 27 (1), and upon payment of the prescribed fee enter the trade mark in the register.

(2) The entry in the register shall give the date of the registration, the goods in respect of which the trade mark is registered, the particulars specified in the Act, including the trade or business address, address for service (if any) and description of the proprietor, particulars of any undertakings by the proprietor, any

other particulars affecting the scope of the registration or the rights conferred by the registration, and such other particulars as the Controller deems necessary or desirable.

(3) In the case of an application for registration which the Controller accepts only after the applicant has lodged the written consent of another applicant or the proprietor of a registered trade mark to the proposed registration, the entry in the register shall include a reference to the consent and shall give the registration number of the previously registered trade mark or the reference number of the other application for registration, as the case may be.

50. In case of the death of any applicant for the registration of a trade mark, after the date of his application and before the trade mark applied for has been entered in the register, the Controller, after the expiration of the prescribed period of advertisement and the determination of any opposition to the application, may, on being satisfied of the applicant's death, enter in the register, in place of the name, address, and description of such deceased applicant, the name, address, and description of the person owning the trade mark, on such ownership being proved to the satisfaction of the Controller.

51. The certificate to be issued by the Controller on the registration of a trade mark shall be in the form in Part II of Schedule IV.

### ASSOCIATED MARKS.

52. Where a mark is registered as associated with any other mark, the entry in the register shall include the registration number of the other mark, and the Controller shall note, in the entry in the register in relation to the other mark, a reference to the registration number of the first-mentioned mark, as being a mark associated with the other mark.

53. An application by a registered proprietor under section 31 (5) to the Controller to dissolve the association between two or more associated trade marks shall be accompanied by the prescribed fee or evidence of payment thereof, and shall give particulars of the trade marks concerned and be accompanied by a statement of the grounds of the application.

### RENEWAL, REMOVAL, RESTORATION.

54. An application under section 28 for the renewal of the registration of a trade mark shall be made to the Controller in writing not earlier than three months before the date of expiration of the last registration. The application shall be accompanied by the prescribed fee or evidence of payment thereof. On lodgment of the application, the registered proprietor or his authorised agent shall confirm the correctness of the trade or business address and address for service (if any) appearing in the entry of the mark in the register.

55. In case the fee for renewal has not been paid, the notice to be sent by the Controller under section 28 shall be in writing and shall be sent not earlier than two months and not later than one month before the expiration of the last registration.

56. If at the date of the expiration of the last registration of a mark the renewal fee has not been paid, the Controller shall advertise the fact forthwith in the Journal, and if within one month from the date of the advertisement, the renewal fee together with the prescribed additional fee or evidence of payment thereof is received, he may renew the registration without removing the mark from the register.

57. Where, at the expiration of one month from the date of an advertisement mentioned in the last foregoing Rule, the fees therein mentioned have not been paid, the Controller may remove the mark from the register as of the date of the expiration of the last registration, but may, upon lodgment of the renewal fee together with the prescribed restoration fee or of evidence of payment thereof, restore the mark to the register and renew the registration, if satisfied that it is just so to do, and upon such conditions as he may think fit to impose.

58. Where a trade mark has been removed from the register, the Controller shall cause to be entered in the register a record of the removal and of the cause thereof.

59. Upon the renewal, or restoration and renewal, of a registration, a notice to that effect shall be sent to the registered proprietor and the renewal or restoration and renewal shall be advertised in the Journal.

### ASSIGNMENTS AND TRANSMISSIONS.

60. Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall make an application to the Controller to register his title. The application shall be duly signed and dated by the applicant or his authorised agent and shall be accompanied by the prescribed fee, or evidence of payment thereof, and shall contain:—

- (a) in case the applicant is an individual the Christian names, surname and nationality of the individual;
- (b) in case the applicant is a partnership the Christian names, surname and nationality of each of the partners;
- (c) in case the applicant is a body corporate, the name of the body and a statement of its kind and country of incorporation;
- (d) the trade or business address and description, trading style (if any), and (where necessary) the address for service within the State, of the applicant;
- (e) the registration number of the trade mark and the class in Schedule II in respect of which it is registered;
- (f) the date of acquisition of proprietorship of the trade mark by the applicant;
- (g) in case the applicant claims to be entitled to the trade mark by virtue of an instrument, a statement to this effect together with particulars of the instrument (including the date of execution) or other supporting documents;
- (h) a statement stating whether the trade mark at the time of the assignment was, or was not, used in a business in any of the goods in respect of which it is registered;
- (i) in the case of an assignment otherwise than in connection with the goodwill of a business in any of the goods in respect of which the trade mark is registered, a statement stating whether the assignment took place, or did not take place, after the commencement of the Act.

61. Where an application under Rule 60 claims title by virtue of an instrument, the instrument shall be produced for inspection by the Controller, together with an attested copy for retention by the Controller unless he in his discretion otherwise directs.

62. Where an applicant under Rule 60, does not claim under any document or instrument which is capable in itself of furnishing proof of his title, he shall, unless the Controller otherwise directs, either upon or with the application, state a case setting forth the full particulars of the facts upon which his claim to be proprietor of the trade mark is based (including a reference to the clauses in a document or instrument which are relevant to the application) and showing that the trade mark has been assigned or transmitted to him. If the Controller so requires, the statement of case shall be verified by a statutory declaration.

63. The Controller may call on any person who applies to be registered as proprietor of a registered trade mark for such proof or additional proof of title as he requires for his satisfaction.

64. Where an application under Rule 60 relates to an assignment after the commencement of the Act, of a trade mark in respect of any goods and—

- (a) the trade mark was, at the time of the assignment, used in a business in any of those goods, and
- (b) the assignment was made otherwise than in connection with the goodwill of the business, the application shall include a reference to the number of the Journal in which notice of the assignment was published pursuant to an application made in accordance with Rule 69.

65.—

(1) For the purposes of section 37 (4), the period within which a corporation may be registered as the subsequent proprietor of a registered trade mark shall be six months date of advertisement in the Journal of the registration of the trade mark.

(2) The following provisions shall apply in relation to an application to the Controller to extend the period specified in paragraph (1):

- (a) the application shall be in writing and may be made by the corporation or the registered proprietor;
- (b) the application shall be made within the period specified in paragraph (1);
- (c) the application shall specify the period of extension desired by the applicant;
- (d) the application shall be accompanied by the prescribed fee or evidence of the payment thereof.

66. The Controller, on being satisfied as to the title of a person applying under Rule 60 to be registered, shall cause him to be registered as proprietor of the trade mark in respect of the relevant goods, and shall enter in the register his name, trade or business address and description, address for service (if any), and particulars of the assignment or transmission.

67. Where pursuant to an application under Rule 60, and as the result of a division and separation of the goods designated in a specification, or a division and separation of places or markets, different persons become separately registered under the same registration number as subsequent proprietors of a trade mark, each of the resulting separate registrations in the names of those different persons shall be deemed to be a separate registration for all the purposes of the Act.

68.—

(1) An application for a certificate under section 30 (5) or approval under section 30 (6) or paragraph 2 of the Second Schedule to the Act shall be in writing and shall be accompanied by the prescribed fee or evidence of payment thereof, and a statement of case in duplicate setting out the circumstances. The application shall also be accompanied by a copy of any instrument effecting, or by which it is proposed to effect, the assignment or transmission.

(2) The Controller may call for any evidence or further information that he considers necessary, and the statement of case shall be amended, if required, to include all the relevant circumstances and shall, if required, be verified by a statutory declaration.

(3) The Controller, after hearing, if so required, the applicant and any other person whom the Controller may consider to be interested in the assignment or transmission, shall consider the matter and, in case the application is under section 30 (5), issue a certificate or, in any other case, notify the applicant in writing of his decision.

(4) Where a statement of case is amended, two fair copies thereof in its final form shall be left with the Controller.

(5) The Controller shall attach and seal a copy of the statement of case in its final form to the certificate or notification.

69.—

(1) An application to the Controller to publish a notice in the Journal under section 30 (7) shall be made by the assignee. The application shall be in writing and shall be accompanied by the prescribed fee or evidence of payment thereof, and by the instrument effecting the assignment together with a copy thereof, and shall state the date on which the assignment was made. The application shall, in the case of a registered trade mark, give particulars of the registration or, in the case of an unregistered trade mark, show the mark and give particulars of the registered trade mark that has been assigned or transmitted therewith in accordance with the requirements of section 30 (3). In case the assignment has been the subject of an application under section 30 (6), the application shall, in addition to the particulars hereinbefore specified, include a reference identifying the notification of the Controller's approval under section 30 (6).

(2) The Controller may call for any evidence or further information that he considers necessary and if he is satisfied with regard to the application he shall publish a notice of the assignment in the Journal and inform the assignee accordingly.

(3) A request to the Controller for an extension of the period within which an application under section 30 (7) may be made shall specify the extension desired and shall be accompanied by the prescribed fee or evidence of payment thereof. The request may be made at any time before the expiration of the period which it is desired to extend. The extension of the period which the Controller may allow shall not exceed three months.

#### APPLICATION TO THE CONTROLLER FOR RECTIFICATION.

70.—

(1) An application to the Controller under section 34, 35 (4), 40 or 41 for the making, expunging or varying of any entry in the register shall state the full name, trade or business address and (where necessary) the address for service, of the applicant, the nature of his interest, the facts upon which he bases his case and the relief which he seeks, and shall be accompanied by the prescribed fee or evidence of payment thereof.

(2) Where the applicant is not the registered proprietor of the trade mark in question, the application shall be sent to the Controller in duplicate, and the Controller, on receipt of the application, shall forthwith send one copy of the application to the registered proprietor.

(3) Upon such application being made, and a copy thereof transmitted to the registered proprietor, if necessary, the provisions of Rules 36 to 46 shall, subject to the appropriate modifications, apply to the further proceedings thereon; Provided that the Controller shall not rectify the register or remove the mark from the register merely because the registered proprietor has not filed a counter-statement. In any case of doubt any party may apply to the Controller for directions.

71. Any person, other than the registered proprietor, alleging interest in a registered trade mark in respect of which an application referred to in Rule 70 is made, may make an application to the Controller for leave to intervene, stating therein his full name, trade or business address, and (where necessary) address for service, and the nature of his interest. The application shall be accompanied by the prescribed fee or evidence of payment thereof, and the Controller may after hearing the parties concerned, if so required, refuse or grant such leave, upon such terms and conditions as he deems fit. Before dealing with the application the Controller may require the applicant to give an undertaking to pay any costs which he may award against him.

#### ALTERATION OF THE REGISTER BY CORRECTION, CHANGE OF NAME OR ADDRESS, CANCELLATION, AMENDMENT OF GOODS, ETC.

72.—

(1) A registered proprietor or registered user of a trade mark whose trade or business address is changed so that the entry in the register is rendered incorrect shall forthwith request the Controller to enter the appropriate change in the address in question in the register. The application shall be in writing accompanied by the prescribed fee, or evidence of payment thereof, and the Controller shall enter the appropriate change in the address in the register if he is satisfied in the matter.

(2) A registered proprietor or registered user of a trade mark whose address for service entered in the register, not being an address consisting of the address of a person who is registered in the register of trade mark agents, is changed, whether by discontinuance or otherwise, so that the entry in the register is rendered incorrect, shall forthwith request the Controller to make the appropriate change in the address in question in the register. The application shall be in writing and shall be duly signed by the registered proprietor or registered user, as the case may be, or by an agent authorised for the purpose of the application, unless in exceptional circumstances the Controller otherwise allows. The application shall be accompanied by the prescribed fee, or evidence of payment thereof, and the Controller shall make the appropriate change in the entry in the register if he is satisfied in the matter.



(3) In case a trade or business address or an address for service is altered by a public authority, so that the changed address designates the same premises as before, an application to effect the appropriate change in the address in question in the register shall be duly acted upon by the Controller without payment of the prescribed fee, provided the application is accompanied by a certificate of the alteration given by the said authority and is made immediately after the alteration has been made.

73.—

(1) A request to the Controller under section 42 (1), to enter any change in the address of the person who is registered as the proprietor shall be made in accordance with the provisions specified in Rule 72, and any other request to the Controller under section 42 (1) shall be in writing accompanied by the prescribed fee or evidence of payment thereof. In case the application is for the cancellation of a registration or for the amendment of a specification, it shall be duly signed by the registered proprietor or by such other person as may satisfy the Controller that he is authorised to sign the application, and in any other case, it shall be duly signed by the registered proprietor, or by an agent authorised for the purpose of the application, or by such other person as may satisfy the Controller that he is authorised to sign the application.

(2) Any application under this Rule to enter a change in a name shall be accompanied by evidence of the change of name together with, in case the application is in respect of the name of a partnership or body corporate, a statement that no change has been made in the constitution of the partnership or body corporate.

(3) The Controller may require such evidence by statutory declaration or otherwise, as he thinks fit, as to the circumstances in which an application under this Rule is made.

74. Where application is made to amend a specification in the register, or to enter a disclaimer or memorandum relating to a trade mark, the Controller, before deciding thereon, shall advertise the application in the Journal. The advertisement shall comprise a notification that any person desiring so to do may, within one month of the advertisement, state to the Controller any reasons in writing against the amendment of the specification or the making of the entry of the disclaimer or memorandum, as the case may be, and any such statement may be made accordingly.

75. Where the Court has certified as provided in section 53 with regard to the validity of a registered trade mark, the registered proprietor thereof may apply to the Controller to add to the entry in the register a note that the certificate of validity has been granted in the course of the proceedings, which shall be named in the application. The application shall be accompanied by the prescribed fee, or evidence of payment thereof, and by an attested copy of the certificate, and the Controller shall so note the register and publish the note in the Journal.

76. Before the Controller proceeds, under section 42 (3), to correct an error in an entry on the register, he shall send to the registered proprietor of the trade mark, and, in case the entry of a registered user is affected, to that registered user, a notice giving particulars of the proposed correction and of the subsequent provisions of this Rule. If the registered proprietor, or registered user if affected, objects to the proposed correction, he shall within one month from the date of the notice apply for a hearing or communicate his considered objections in writing. The Controller shall consider any objections or representations so made to him, and shall notify the registered proprietor or registered user of his decision. If the registered proprietor or registered user does not apply for a hearing, or communicate his considered objections in writing, within the period aforesaid, he may be treated as having assented to the proposed correction.

#### APPLICATIONS TO ALTER REGISTERED TRADE MARKS.

77. An application under section 43 by the registered proprietor of a or a trade mark for leave to add to or alter the trade mark shall be made in writing to the Controller, and shall be accompanied by three copies of the mark as it will appear when so added to or altered, and by the prescribed fee or evidence of payment thereof.

78.—

(1) Where upon consideration of an application under section 43 the Controller causes the application to be advertised in the Journal, the time within which any person may give notice of opposition to the application shall be one month from the date of the advertisement.

(2) The notice referred to in paragraph (1) shall be in writing and shall be sent to the Controller in duplicate, and shall state the full name, trade or business address, and (where necessary) address for service of the opponent, and the grounds of his opposition to the application, and shall be accompanied by the prescribed fee or evidence of payment thereof.

(3) On receipt of a notice of opposition the Controller shall send a copy of the notice to the applicant, and the provisions of Rules 36 to 46 shall, subject to the appropriate modifications, apply to the further proceedings thereon. In any case of doubt any party may apply to the Controller for directions.

79. In case the Controller decides to allow an application to add to or alter a trade mark, he shall add to or alter the mark in the register, and if the mark so added to or altered has not been advertised under the last foregoing Rule, he shall advertise it in the Journal, and in every case he shall insert in the Journal a notification that the mark has been added to or altered (as the case may be).

80. In connection with an application for leave to add to or alter a registered trade mark, the Controller may at any time call on the applicant to supply a printing block complying with the requirements of Rule 34 for the purpose of advertising the mark in the altered form proposed, if, in the opinion of the Controller, an advertisement describing the addition or alteration in words would not be likely to be understood by persons interested in the matter.

81.—

(1) An application by the registered proprietor of a certification trade mark for an alteration of the deposited regulations, and for the consent of the Minister thereto, shall be sent to the Controller. The application shall be accompanied by the prescribed fee or evidence of payment thereof, and by three copies of the regulations with the proposed alteration shown therein in red.

(2) Where the Minister causes such an application to be advertised, the time from the (date of the advertisement, within which any person may give notice of opposition to the application, shall be one month.

82. An application under paragraph 4 of the First Schedule to the Act, by an aggrieved person to the Minister for an Order for expunging or varying an entry in the register relating to a certification trade mark, or for varying the relevant deposited regulations, shall be sent in duplicate to the Controller. The application shall be in writing accompanied by the prescribed fee, or evidence of payment thereof, and by a statement of case in duplicate giving full particulars of the grounds on which the application is made.

## REGISTERED USERS.

83. An application to the Controller for the registration under section 36 of a person as a registered user of a registered trade mark shall be made by the proposed registered user and the registered proprietor of the trade mark, and shall be duly signed by both parties and dated, and shall contain—

- (a) the full name, trade or business address and description, and (where necessary) address for service within the State, of the registered proprietor of the trade mark, which shall be specified by reference to its registration number;
- (b) the class number in Schedule II and the specification of goods, as entered in the register;
- (c) in case the proposed registered user is an individual, the Christian names, surname and nationality of the individual;
- (d) in case the proposed registered user is a partnership, the Christian names, surname and nationality of each of the partners;
- (e) in case the proposed registered user is a body corporate, the name of the body and a statement of its kind and country of incorporation;

- (f) the trade or business address and description, trading style (if any), and (where necessary) the address for service within the State, of the proposed registered user;
- (g) a statement of the goods in relation to which the proposed registered user is to be permitted to use the mark and in respect of which it is proposed that he should be registered;
- (h) an indication, by reference to the relevant paragraph in Rule 85, of the prescribed relationship subsisting between the registered proprietor and the proposed registered user;
- (i) a statement whether the permitted use is to be for a limited period or without limit of period, and, if for a limited period, the duration thereof.

84. An application referred to in the immediately preceding Rule shall be accompanied by—

- (a) the prescribed fee or evidence of payment thereof;
- (b) a statement of case stating—
  - (i) full particulars of the relationship subsisting between the registered proprietor of the trade mark and the proposed registered user,
  - (ii) the goods in relation to which the proposed registered user is to be permitted to use the mark and in respect of which it is proposed that he shall be registered,
  - (iii) any conditions or restrictions proposed with respect to the characteristics of the goods, or to the mode or place of permitted use, or to any other matter, and
  - (iv) whether the permitted use is to be for a limited period or without limit of period, and, if for a limited period, the duration thereof;
- (c) a statutory declaration made by the registered proprietor of the trade mark or by some person authorised to act on his behalf, and approved by the Controller, verifying the statement of case;
- (d) the agreement or other document (if any) relied on by the applicants in support of the application, together with an attested copy thereof for retention by the Controller, and with a statement referring to the clauses in the agreement or document which are relevant to the application.

85.—

(1) The relationship subsisting or proposed between the registered proprietor of a trade mark and the proposed registered user for the purposes of section 36 (1) shall be one of the following:

- (a) a relationship whereby the registered proprietor of the trade mark has control over the proposed registered user;
- (b) a relationship whereby the proposed registered user has control over the registered proprietor of the trade mark;
- (c) a relationship whereby a person, being neither the registered proprietor of the trade mark nor the proposed registered user, has control over both the proprietor of the trade mark and the proposed registered user;
- (d) a relationship based upon an agreement in writing subsisting between the registered proprietor of the trade mark and the proposed registered user and specifying conditions whereby the proprietor is entitled to ensure that the goods, in relation to which the trade mark may be used by the proposed registered user, conform to characteristics specified by the proprietor;
- (e) a relationship whereby the proposed registered user is to use the mark in relation only to goods manufactured by him and protected by patent under which he is a licensee and which is registered in the name of the registered proprietor of the trade mark.

(2) In this Rule “control”, in relation to a body corporate, means the power of a person to secure, by means of the holding of shares or the possession of voting power in or in relation to that or any other body corporate, or by virtue of any powers conferred by the articles of association or other document regulating that or any other body corporate, that the affairs of the first-mentioned body corporate are conducted in accordance with the wishes of that person and, in relation to a partnership, means the right to a share of more than one-half of the assets, or of more than one-half of the income, of the partnership.

86.—

(1) The entry of a registered user in the register shall state the date on which the application for such entry was made. In addition to the trade or business address of the registered user, it shall, where necessary, include an address for service.

(2) A notification in writing of the registration of a registered user shall be sent by the Controller to the registered proprietor of the trade mark, and to the said registered user and shall be inserted in the Journal.

87. An application to the Controller for the variation or cancellation of the registration of a person as a registered user under section 36 (7) shall include full particulars of the registration to which it relates, and shall be accompanied by the prescribed fee or evidence of payment thereof, and by a statement of the grounds on which the application is made, together with, in the case of an application by the registered proprietor of a trade mark for a variation of the registration made with the consent of the registered user in question, the written consent of the registered user.

88.—

(1) Where the Controller receives an application referred to in the last foregoing Rule, he shall notify in writing the registered proprietor and each registered user (not being the applicant) of the trade mark whose registration is the subject of the application, and he shall advertise the application in the Journal. The advertisement shall comprise a notification that any person desiring so to do may, within one month of the date of the advertisement, intervene in the proceedings by notice to the Controller to that effect, and any such intervention may be made accordingly.

(2) The notice referred to in paragraph (1) shall be in writing and shall be accompanied by a statement of the grounds of the intervention, together with the prescribed fee or evidence of payment thereof.

(3) Where the Controller receives a notice and statement under this Rule, he may require the person who intervenes to furnish such additional copies of the notice and statement as he thinks fit. In case a person fails to comply with a requirement of the Controller under this paragraph the Controller may treat the intervention as abandoned.

(4) Where the Controller receives a notice and statement under this Rule, he shall send copies of the notice and statement to the applicant, the proprietor of the trade mark, the registered user whose registration is in suit, and to any other registered user who intervenes.

(5) Any person who intervenes in the proceedings or who is referred to in paragraph (4) may, within such time or times as the Controller may appoint, leave evidence in support of his case, and the Controller after giving the parties an opportunity of being heard may accept or refuse the application or accept it subject to any amendments, modifications, limitations or conditions he thinks right to impose.

89. A request to the Controller under section 42 (2), to enter any change in the address of the registered user shall be made in accordance with the provisions specified in Rule 72, and any other request to the Controller under section 42 (2) shall be in writing, accompanied by the prescribed fee or evidence of payment thereof, and the Controller may require such evidence by statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made.

90.—

(1) Where a registered user is registered subject to a restriction whereby the permitted use of the trade mark is restricted to a limited period the Controller shall cancel the entry of the registered user at the end of the period.

(2) Where some or all of the goods are struck out from those in respect of which a trade mark is registered, or where the specification of goods in respect of which a trade mark is registered is otherwise amended by request made under section 42 (1) (d) the Controller shall at the same time amend in like manner those specifications of registered users of the trade mark in which the said goods are comprised.

(3) The Controller shall notify every cancellation, striking out or other amendment under this Rule to the registered users whose permitted use is affected thereby and the registered proprietor of the trade mark.

## DISCRETIONARY POWER.

91. Before exercising adversely to any person any discretionary power given to the Controller by the Act, or these Rules, the Controller shall, if so required, hear such person thereon.

92. Save as otherwise provided by these Rules, an application for a hearing shall be made within ten days from the date of notification by the Controller of any objection to an application or the date of any other indication that he proposes to exercise a discretionary power.

93.—

(1) Upon receiving an application for a hearing, the Controller shall give the person applying ten days' notice of a time when he may be heard.

(2) Within five days from the date when the notice would be delivered in the ordinary course of post, the person applying shall notify the Controller whether or not he intends to be heard on the matter.

(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.

94. The decision of the Controller in the exercise of any discretionary power shall be notified to the person affected.

95. Where, under these Rules, any person is required to do any act or thing, 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 for 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 other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, signature, declaration, document or evidence.

96. The times prescribed by these Rules for doing any act or taking any proceeding thereunder, other than the times prescribed by the Act and by Rules 16, 18, 65 and 69, may be extended by the Controller if he thinks fit, upon such notice to other parties and proceedings thereon, on such terms as he may direct, and an extension may be granted though the time has expired for doing the act or taking the proceeding.

97. Any document or drawing or other representation of a trade mark may be amended, and any irregularity in procedure which in the opinion of the Controller may be excused without detriment to the interests of any person may be corrected, if the Controller thinks fit, and on such terms as he may direct.

## DECLARATIONS.

98. A statutory declaration required by the Act or these Rules or used in any proceedings 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. Every statutory declaration shall state the description and true place of abode of the person making the declaration, and shall be written, typed, lithographed or printed bookwise and shall bear the name and address of the person leaving it and shall state on whose behalf it is left.

99. A statutory declaration required by the Act, or these Rules, or used in any proceedings thereunder, shall, if made and subscribed outside the State, be made and subscribed before a consular officer, a notary public, or a judge or magistrate.

100. Any document purporting to have affixed, impressed, or subscribed thereto or thereon, the seal or signature of any person authorised by the last foregoing Rule to take a declaration, in testimony that the declaration was made and subscribed before him, 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 his authority to take the declaration.

### APPLICATIONS TO AND ORDERS OF COURT.

101. Every application to the Court under the Act shall be notified forthwith to the Controller by the applicant.

102. Where an order has been made by the Court in any case under the Act, the person in whose favour the order has been made, or such one of them, if more than one, as the Controller may direct, shall forthwith give notice thereof to the Controller, and the notice shall be accompanied by the prescribed fee or evidence of payment thereof, together with an attested copy of the said order. The register may, if necessary, thereupon be rectified or altered by the Controller.

103. Whenever an order is made by the Court under the Act the Controller may, if he thinks that the order should be made public, publish it in the Journal.

### MISCELLANEOUS.

104.—

(1) The Office shall be open to the public for trade mark business and the register, approved regulations governing the use of a certification trade mark deposited at the Office under section 45 (7) and the documents specified in Rule 106 shall, on payment of the prescribed fee, be open to inspection every Monday, Tuesday, Wednesday, Thursday and Friday between the hours of ten a.m. and four p.m. and any other days and hours which may from time to time be notified under this Rule.

(2) Notwithstanding the provisions of paragraph (1) the Office shall not be open on the following days :—

Christmas Day, Good Friday, St. Patrick's Day, Bank Holidays and days which may from time to time be notified by a notice under this Rule.

(3) Notification under this Rule shall be by notice posted in a conspicuous place at the Office.

105.—

(1) Whenever the last day fixed by the Act, or by these Rules, for doing any act or thing at the Office shall fall on a day when the Office is not open or on a Saturday, 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 day next following such excluded day, or days, if two or more of them occur consecutively.

(2) Where a period of less than six days is prescribed or allowed for doing any act or taking any proceeding under the Act or these Rules, days specified in this Rule as excluded days shall not be reckoned in the computation of the period.

106.—

(1) In addition to the register and the approved regulations governing the use of a certification trade mark deposited at the Office under section 45 (7), the following shall be open to public inspection on payment of the prescribed fee :—

- (a) applications under or referred to in Rule 17, 60, 72, 73, 77, 82, 83 or 87, which have been notified as pending, or as having resulted in an entry in the register, by advertisement in the Journal;
- (b) letters of consent to the registration of a trade mark which have been referred to in an advertisement in the Journal;
- (c) notices of opposition, and counter-statements thereto;
- (d) applications for the rectification of the register, and counter-statements thereto.

(2) Save as provided in paragraph (1) the Controller shall disclose information given for the purposes of an application or proceeding under the Act or these Rules, which is likely to be of interest to rivals in trade, without first giving the person on whose behalf the information was furnished, or any person claiming under him, an opportunity of being heard, or of stating in writing his objections to the disclosure of such information.

107. The Controller may give a certificate, other than a certificate under section 27 (2), as to any entry, matter or thing which he is authorised or required by the Act or these Rules to make or do, upon receipt of a request therefor accompanied by the prescribed fee from any person who, if the Controller thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction. Except in a case falling under Rule 108, the controller shall not be obliged to include in the certificate a copy of any mark, unless he is furnished by the applicant with a copy thereof suitable for the purpose.

108. Where a certificate is desired for use in obtaining registration of a trade mark abroad, the Controller shall affix to the certificate a representation of the mark and, if the mark is registered without limitation of colour, the representation may be in the colour in which the mark appears in the register or in any other colour, and the Controller shall state in the certificate such particulars concerning the registration of the mark as to him seem fit, and may omit therefrom reference to any disclaimers appearing in the register. Certificates issued in accordance with this Rule shall be marked :-

“ For use in obtaining registration abroad only ”.

109. The Controller, if requested in writing so to do and on payment of the prescribed fee, may cause a search to be made in respect of specified goods 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. If the request specifies goods belonging to more than one of the classes specified in Schedule II a separate fee shall be paid in respect of each different class concerned. The person making such request shall be notified of the result of the search.

110. The Rules specified in column (2) of Schedule V are hereby revoked to the extent specified in column (3) of that Schedule but without prejudice to anything done thereunder and any application or other matter pending at the commencement of these Rules may be continued and completed in accordance with the Rules hereby revoked.

## SCHEDULE I. FEES PAYABLE IN RELATION TO TRADE MARKS.

### RULE 4.

	£	s.	d.
1. On application not otherwise charged to register a trade mark, or a series of trade marks under section 25 (1) for a specification of goods included in one class	4	0	0
2. On application to register a defensive trade mark or a certification trade mark for a specification of goods included in one class	5	0	0
3. On request to the Controller to state grounds of his decision under Rule 26 or Rule 43	3	0	0
4. On notice of opposition before the Controller under section 26 or 43, for each application opposed, by the opponent	3	0	0
5. On lodging a counter-statement in answer to a notice of opposition under section 26 or 43, for each application opposed, by the applicant or the proprietor as the case may be, or on lodging a counter-statement in answer to an application under section 34, 35, 40 or 41, by the proprietor in respect of each trade mark	2	0	0
6. On the hearing of each opposition under section 26 or 43, by each party; or on the hearing of an application under section 34, 35, 40 or 41, by each party	3	0	0



	£	s.	d.
7. On notice of opposition before the Minister under paragraph 2 of the First Schedule to the Act, for each application opposed, by the opponent	3	0	0
8. On lodging a counter-statement in answer to a notice of opposition before the Minister under paragraph 2 of the First Schedule to the Act, for each application opposed, by the applicant	2	0	0
9. On the hearing of each opposition before the Minister under paragraph 2 of the First Schedule to the Act, by each party	3	0	0
10. For one registration of a trade mark, or of a series of trade marks, under section 27 not otherwise charged—			
(i) For one mark in respect of each class	4	0	0
(ii) And for each additional mark in a series in respect of each class	1	0	0
11. For one registration of a defensive trade mark, or of a certification trade mark, for a specification of goods included in one class	5	0	0
12. Upon the addition to the registered entry of a trade mark of a note that the mark is associated with a newly registered mark:			
(i) For the first addition	0	10	0
(ii) And for each other similar addition	0	5	0
13. On application to dissolve the association between registered trade marks:			
(i) On an application involving two such marks	2	0	0
(ii) And for each additional mark	0	5	0
14. On application to register a registered user of a registered trade mark, or to register the same registered user of more than one registered trade mark of the same registered proprietor subject to the same conditions or restrictions in each case:			
(i) For one mark	4	0	0
(ii) And for every other mark of the proprietor included in the application and statement of case	0	10	0
15. On application by the registered proprietor of one or more trade marks under paragraph (a) of section 36 (7) to vary the entry, or entries, of a registered user thereof:			
(i) For one mark	4	0	0
(ii) And for every other mark of the proprietor for which the same user is registered, included in the application	0	10	0
16. On application by the registered proprietor or registered user of one or more trade marks under paragraph (b) of section 36 (7) for cancellation of the entry, or entries, of a registered user thereof:			
(i) For one mark	2	0	0
(ii) And for every other mark of the proprietor for which the same user is registered, included in the application	0	4	0
17. On application under paragraph (c) of section 36 (7) to cancel the entry, or entries, of a registered user of one or more trade marks:			
(i) For one mark	2	0	0
(ii) And for every other mark of the same proprietor for which the same user is registered, included in the application	0	4	0
18. On notice under Rule 88 of intention to intervene in one proceeding for the variation or cancellation of entries of a registered user of trade marks	1	0	0
19. On application under Rule 75 to enter in the register and advertise a certificate of validity given under section 53:			
(i) For the first registration certified	1	0	0
(ii) And for every other registration certified in the same certificate	0	1	0





	£	s.	d.
<b>20.</b> On application under section 37 (4) and Rule 65 for extension of time for registering a corporation as subsequent proprietor of trade marks on one assignment:			
(i) Not exceeding two months	1	0	0
(ii) Not exceeding four months	2	0	0
(iii) Not exceeding six months	3	0	0
<b>21.</b> On application for certificate of the Controller under section 30 (5) and Rule 68:			
(i) For the first mark proposed to be assigned	4	0	0
(ii) And for every other mark of the same proprietor to be included in the assignment	0	5	0
<b>22.</b> On application for approval of the Controller under section 30 (6) or paragraph 2 of the Second Schedule to the Act, and Rule 68:			
(i) For the first mark	4	0	0
(ii) And for every other mark of the same proprietor included in the same assignment or transmission	0	5	0
<b>23.</b> On application under section 30 (7) and Rule 69 for publication of notice of assignment of trade marks in use, without goodwill:			
(i) For one mark assigned	2	0	0
(ii) And for every other mark assigned with the same devolution of title	0	5	0
<b>24.</b> On application for extension of time for applying for publication of notice of assignment of trade marks in use, without goodwill, in respect of one devolution of title:			
(i) Not exceeding one month	1	0	0
(ii) Not exceeding two months	2	0	0
(iii) Not exceeding three months	3	0	0
<b>25.</b> On application to register a subsequent proprietor of a trade mark, or of two or more trade marks standing in the same name and where the devolution of title is the same in each case:			
(a) If made within six months from the date of acquisition of proprietorship or the coming into force of these Rules			
(i) For one mark	4	0	0
(ii) And for every other mark, included in the application	0	10	0
(b) If made after expiration of six months but within twelve months from the date of acquisition of proprietorship or the coming into force of these Rules:			
(i) For one mark	5	0	0
(ii) And for every other mark included in the application	0	10	0
(c) If made after expiration of twelve months from the date of acquisition of proprietorship or the coming into force of these Rules:			
(i) For one mark	6	0	0
(ii) And for every other mark, included in the application	0	10	0
<b>26.</b> On application to enter any change in the name or description of a proprietor or a registered user of a trade mark, or of two or more trade marks standing in the same name, where there has been no change in the proprietorship or in the identity of the user and where the change is the same in each case:			
(i) For one mark	1	0	0
(ii) And for every other mark, included in the application	0	5	0
<b>27.</b> For altering one or more entries of the trade or business address of a registered proprietor or a registered user of a trade mark where the address in each case is the same and is altered in the same way (unless exempted from fee under Rule 72):			
(i) For the first entry	1	0	0
(ii) And for every other entry	0	5	0
<b>28.</b> For altering one or more entries of an address for service in the register included in one application for alteration, where the address and the alteration in each case are the same:			
(i) For the first entry	1	0	0



	£	s.	d.
(ii) And for every other entry	0	5	0
29. For renewal of registration of a trade mark at expiration of last registration	6	0	0
30. For renewal of registration of a series of trade marks under section 29 (2) at expiration of last registration:			
(i) For the first mark of the series	6	0	0
(ii) And for every other mark of the series	0	10	0
31. Additional fee under Rule 56	2	0	0
32. Restoration fee under Rule 57	4	0	0
33. On application to the Controller for leave to add to or alter a registered trade mark, or two or more registered trade marks of the same proprietor, being identical marks, the addition or alteration to be made, in each case, being the same:			
(i) For one mark	4	0	0
(ii) And for every other mark, included in the application	2	0	0
34. For every entry in the register of a rectification thereof or an alteration therein, not otherwise	2	0	0
35. On application, under section 34, 35, 40 or 41 for rectification of the register or removal of a trade mark from the register	5	0	0
36. On application for leave to intervene in proceedings under section 34, 35, 40 or 41 for rectification of the register or removal of a trade mark from the register	3	0	0
37. On request to amend an application for registration, or on request by the registered proprietor of a trade mark for the entry of a disclaimer or memorandum in the register, or for the cancellation of the registration or to amend the specification of goods entered in the register, or to correct a clerical error in an entry in the register	1	0	0
38. On application to the Minister referred to in Rule 81, to expunge or vary the registration of a certification trade mark or to vary the deposited regulations of a certification trade mark or of certification trade marks of the same registered proprietor where the regulations are substantially the same	3	0	0
39. On application by the registered proprietor of a certification trade mark for alteration of the regulations deposited in respect thereof:			
(i) For the regulations of one such registration	2	0	0
(ii) For the same or substantially the same regulations of each other registration proposed to be altered in the same way and included in the same application	0	5	0
40. On request for a search under Rule 109 in respect of one class:			
(i) Without application for the Controller's advice under Rule 16	2	0	0
(ii) With application for the Controller's advice under Rule 16	3	0	0
41. On request for the Controller's preliminary advice, for each trade mark submitted in respect of goods in one class	1	0	0
42. For certificate of the Controller other than certificate under section 27 (2)	1	0	0
43. For inspection of the register or other document open to inspection, or for making a search amongst the classified representations of trade marks, for every quarter of an hour	0	3	0
44. For typed office copies of documents, for each 100 words or less	0	3	0
45. For photographic office copies of documents, for each foolscap page	0	3	0
46. For certifying office copies, MSS., typed, printed or photographic, each	0	10	0



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	£	s.	d.
47. When the block required under Rule 34 exceeds two inches either in breadth or in depth:			
(i) For every inch or part of an inch over two inches in breadth	0	10	0
(ii) And for every inch or part of an inch over two inches in depth	0	10	0

## SCHEDULE II. CLASSIFICATION OF GOODS.

### RULE 6.

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

#### CLASS 1.

Chemical products used in industry, science, photography, agriculture, horticulture, forestry; manures (natural and artificial); fire extinguishing compositions; tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry.

#### CLASS 2.

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colouring matters, dyestuffs; mordants; resins; metals in foil and powder form for painters and decorators.

#### CLASS 3.

Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps, perfumery, essential oils, cosmetics, hair lotions; dentifrices.

#### CLASS 4.

Industrial oils and greases (other than edible oils and fats and essential oils); lubricants; dust laying and absorbing compositions; fuels (including motor spirit) and illuminants; candles, tapers, nightlights and wicks.

#### CLASS 5.

Pharmaceutical, veterinary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax; disinfectants; preparations for killing weeds and destroying vermin.

#### CLASS 6.

Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains except driving chains for vehicles; cables and wires (non-electric); locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws and other goods in non-precious metal not included in other classes; ores.

#### CLASS 7.

Machines and machine tools; motors (except for vehicles); machine couplings and belting (except for vehicles); large size agricultural implements; incubators.

#### CLASS 8.

Hand tools and instruments; cutlery, forks and spoons; side arms.

#### CLASS 9.

Scientific, nautical, surveying and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving

and teaching apparatus and instruments; coin or counter-freed apparatus; talking machines; cash registers; calculating machines; fire-extinguishing apparatus.

CLASS 10.

Surgical, medical, dental and veterinary instruments and apparatus (including artificial limbs, eyes and teeth).

CLASS 11.

Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

CLASS 12.

Vehicles; apparatus for locomotion by land, air, or water.

CLASS 13.

Firearms; ammunition and projectiles; explosive substances; fireworks.

CLASS 14.

Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery; precious stones; horological and other chronometric instruments.

CLASS 15.

Musical instruments (other than talking machines and wireless apparatus).

CLASS 16.

Paper and paper articles, cardboard and cardboard articles; printed matter, newspapers and periodicals, books; book-binding material; photographs; stationery, adhesive materials (stationery); artists' materials, paint brushes; typewriters and office requisites (other than furniture); instructional and teaching material (other than apparatus); playing cards; (printers') type and clichés (stereotype).

CLASS 17.

Gutta percha, india rubber, balata and substitutes, articles made from these substances and not included in other classes; materials for packing, stopping or insulating; asbestos, mica, and their products; hose pipes (non-metallic); plastics in the form of sheets, blocks, rods and tubes being for use in manufactures.

CLASS 18.

Leather and imitations of leather, and articles made from these materials, and not included in other classes; skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

CLASS 19.

Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road making materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.

CLASS 20.

Furniture, mirrors, picture frames; articles (not included in other classes) consisting of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, and substitutes for all these materials.

CLASS 21.

Small domestic utensils and containers (not of precious metal, nor coated therewith); combs and sponges; brushes (other than paint brushes), brush-making materials; instruments and material for cleaning purposes; steelwool; glassware, porcelain and earthenware not included in other classes.

CLASS 22.

Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks; padding or stuffing materials (hair, capoc, feathers, seaweed, etc.); raw fibrous textile materials.

CLASS 23.

Yarns, threads.

CLASS 24.

Tissues (piece goods); bed and table covers; textile articles not included in other classes.

CLASS 25.

Clothing, including boots, shoes and slippers.

CLASS 26.

Lace and embroidery; ribbands and braid; buttons, press buttons, hooks and eyes; pins and needles; artificial flowers.

CLASS 27.

Carpets, rugs, mats and matting; linoleums and other materials for covering floors; wall hangings (non-textile).

CLASS 28.

Games and playthings; gymnastic and sporting articles (except clothing); ornaments and decorations for Christmas trees.

CLASS 29.

Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and other dairy products; edible oils and fats; preserves, pickles.

CLASS 30.

Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour, and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard, pepper, vinegar, sauces, spices; ice.

CLASS 31.

Agricultural, horticultural and forestry products and grains not included in other classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; foodstuffs for animals; malt.



CLASS 32.

Beer, ale and porter; mineral and aerated waters and other non-alcoholic drinks; syrups and other preparations for making beverages.

CLASS 33.

Wines, spirits and liqueurs.

CLASS 34.

Tobacco, raw or manufactured; smokers' articles; matches.

SCHEDULE III.  
THE HERALDIC CONVENTION: REPRESENTATION OF COLOURS

RULE 34.

Black (Sable)

Lines horizontal and perpendicular crossing each other.

Blue (Azure)

Horizontal lines.

Dark Brown (Murrey or Sanguine)

Diagonal lines crossing each other.

Green (Vert)

Diagonal lines from left to right.

Chesnut or Deep Orange (Tenne)

Diagonal lines from right to left and horizontal lines crossing.

Purple (Purpure)

Diagonal lines from right to left.

Red (Gules)

Vertical lines.

White (Argent)

Plain ground.

Yellow or Gold (or)

Dotted ground.





SCHEDULE IV.

RULE 48 AND 51.

PART I.  
FORM OF NOTICE OF NON-COMPLETION OF REGISTRATION.  
TRADE MARKS ACT, 1963.

PART II  
FORM OF CERTIFICATE OF REGISTRATION OF A TRADE MARK.

SCHEDULE V.  
RULES REVOKED.

Rule 110.

Year and Number (1)	Title (2)	Extent of Revocation (3)
1927 No. 78	Industrial Property Rules, 1927.	All the Rules in so far as they refer to trade marks with the exception of Rules 20, 21 and 22.
1928 No. 14	The Industrial Property (Amendment) Rules, 1928.	All the Rules.
1928 No. 77	The Industrial Property (Amendment) Rules (No. 2), 1928.	Rule 5 in so far as it relates to trade marks.
1929 No. 50	The Industrial Property (Amendment) Rules (No. 3), 1929.	Paragraph (2) of Rule 5.
1939 No. 7	Industrial Property (Amendment) Rules (No. 4), 1939.	All the Rules.
1955 No. 116	Industrial Property Rules, 1927 (Amendment) Rules, 1955.	All the Rules in so far as they relate to trade marks.
1956 No. 315	Industrial Property Rules, 1927 (Amendment) Rules, 1956.	All the Rules in so far as they relate to trade marks.

GIVEN under my Official Seal, this 19th day of  
December, 1963.  
JOHN LYNCH,  
Minister for Industry and Commerce.

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 19th day of December, 1963.

SÉAMAS Ó RIAIN.



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EXPLANATORY NOTE.

*(This note is not part of the instrument and does not purport to be a legal interpretation.)*

These Rules are made under Section 3 of the Trade Marks Act, 1963. They come into operation on such date as may be appointed for the commencement of the Act. They replace the rules (other than Rules 20, 21 and 22 of the Industrial Property Rules, 1927) relating to trade marks made under the Industrial and Commercial Property (Protection) Act, 1927.