



STATUTORY INSTRUMENTS.

S.I. No. 533 of 2015



TRADE MARKS (AMENDMENT) RULES 2015

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I, DAMIEN ENGLISH, Minister of State at the Department of Jobs, Enterprise and Innovation, in exercise of the powers conferred on me by section 81 of the Trade Marks Act 1996 (No. 6 of 1996), as adapted by the Enterprise, Trade and Innovation (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 245 of 2011), and the Jobs, Enterprise and Innovation (Delegation of Ministerial Functions) (No. 2) Order 2014 (S.I. No. 547 of 2014), hereby make the following Rules:

Citation and commencement

1. These Rules may be cited as the Trade Marks (Amendment) Rules 2015 and shall come into operation on the 27th day of November 2015.

Definition

2. In these Rules,-

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

“Rules” means the Trade Marks Rules 1996 (S.I. No. 199 of 1996), and, except where the context otherwise requires, a reference to a Rule is a reference to a Rule of those Rules.

Amendment of Rule 63

3. Rule 63 is amended

(a) by substituting the following paragraph for paragraph (1):

“General power to enlarge time.

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

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

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

may if he or she thinks fit, be extended by the Controller.”

(b) by substituting the following paragraph for paragraph (3):

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

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 27th November, 2015.

(c) by substituting the following paragraph for paragraph (4):

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

- (a) not later than two months after the expiry of the time or period in question; and
- (b) no previous request has been made under this paragraph, the Controller shall extend the period or time for such period or time as he or she may direct. A person availing of the provisions of this paragraph shall pay the prescribed fee at the time the request for extension is made.”

(d) by substituting the following paragraph for paragraph (6) (as amended by Rule 13 of the Trade Marks (Amendment) Rules 2010 (S.I. No. 410 of 2010):

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

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

Substitution of Rule 79

4. Rule 79 is amended by the substitution of the following Rule for Rule 79:

“Forms.

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

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

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

GIVEN under my Hand
25 November 2015.

DAMIEN ENGLISH,
Minister of State at the Department of Jobs, Enterprise and
Innovation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal Interpretation.)

These amendments to the Trade Marks Rules, 1996 align with amendments made in primary trade marks legislation, in the context of the Intellectual Property (Miscellaneous Provisions) Act, 2014, aimed at facilitating Ireland's accession to the Singapore Treaty on the Law of Trademarks.

The amendments to Rule 63(1), (3) and (4) of the Trade Marks Rules, 1996 are necessary in order to remove conditions, explanations or consideration of the effect on third parties of the extension of a time limit, for an action in a procedure before the Patents Office.

The amendment to Rule 63(6) of the Trade Marks Rules, 1996 relates to time periods at times of interruption, failure or delays in the communication service of the State or the Patents Office.

The amendments to Rule 79 of the Trade Marks Rules, 1996 are necessary in order to ensure that any forms used in a proceeding before the Patents Office do not contain elements additional to those allowed in the Singapore Treaty on the Law of Trademarks.

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