

THE TRADE MARKS REGULATIONS

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SECTIONS 41 AND 81—THE TRADE MARKS REGULATIONS

*Federal
Government
Notices*
260 of 1957
57 of 1960
11 of 1961
267 of 1962
*Act 57 of 1964
Government
Notice*
497 of 1964
*Statutory
Instruments*
223 of 1965
307 of 1965
39 of 1981
8 of 1984
148 of 1990
*Act No. 13
of 1994*

Regulations by the Minister

1. These Regulations may be cited as the Trade Marks Regulations. Title
2. In these Regulations, unless the context otherwise requires— Interpretation

“agent” means an agent duly authorised to the satisfaction of the Registrar;

“Office” means the Trade Marks Office;

“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.
3. The fees which shall be payable in respect of any application, registration and other matters under the Act and these Regulations shall be the fees prescribed in the First Schedule. Prescribed fees

(*F.G.N. No. 267 of 1962*)
4. The forms herein referred to are those contained in the Second Schedule and such forms shall be used in all cases to which they are applicable, and may be modified as directed by the Registrar to meet other cases. Prescribed forms
5. (1) For the purpose of— Classification of goods
 - (a) trade marks registrations dated in the former Protectorate of Northern Rhodesia before the 27th July, 1938;
 - (b) registrations of registered users in respect of the trade marks mentioned in paragraph (a);

goods are classified in the manner appearing in the Third Schedule unless any specification has been converted to the Fourth Schedule.
- (2) For the purpose of—
 - (a) trade marks registrations dated in the former Protectorate of Northern Rhodesia on or after the 27th July, 1938;

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Trade Marks Regulations

- (b) registrations of registered users in respect of the trade marks mentioned in paragraph (a);
- (c) any trade marks registrations dated before the commencement of the Act whereof the specifications have been converted to the Fourth Schedule; and
- (d) trade marks registered on or after the commencement of the Act or registrations of registered users thereunder;

goods are classified in the manner appearing in the Fourth Schedule.

Application by registered proprietors for conversion of specification

6. Where the specification of a registered trade mark is founded on the Third Schedule, the registered proprietor may apply to the Registrar on Form T.M. No. 45 for the conversion of that specification so that it may be founded on the Fourth Schedule, whether with or without the striking-out of goods therefrom, but so that the registration retains its original date, and shall include in the application a request for the like conversion of the specification of the goods of any registered users under that registration. Thereupon the Registrar in accordance with subsection (3) of section *forty-one* shall notify in writing to the registered proprietor a proposal showing the form which, in the Registrar's view, the amendment of the register should take. Two or more registrations of a trade mark in respect of goods falling within the same class of the Fourth Schedule, having the same date of registration, may be amalgamated upon conversion in accordance with this regulation.

Advertisement of proposal. Opposition

7. The advertisement of a proposal for amendment under subsection (3) of section *forty-one* shall be made in the *Trade Marks Journal* and a notice of any opposition shall be given on Form T.M. No. 46 within two months from the date of the advertisement, and shall be accompanied by a duplicate of the notice and by a statement in duplicate showing how the proposed conversion would be contrary to subsection (2) of section *forty-one*. The Registrar shall forthwith send the duplicate copies to the registered proprietor who may, within two months from the receipt of such duplicates, send to the Registrar a counter-statement on Form T.M. No. 7 setting out fully the grounds on which the opposition is contested and if he does so he shall deliver to the opponent a copy thereof. The Registrar may thereupon require or admit evidence directed to the questions in issue and, if so desired by either party he shall, before deciding the matter, give the parties an opportunity of being heard thereon.

(As amended by F.G.N. No. 57 of 1960)

Conversion of specifications; resulting registrations

8. When a proposal for the conversion of a specification in accordance with regulation 6 has been advertised and has not been opposed and the time for notice of opposition has expired, or having been opposed the opposition has been determined and a conversion allowed, the Registrar shall make all the entries in the register necessary to give effect to the conversion in accordance with the proposal as advertised, or the proposal as amended after opposition or

appeal thereon and published subsequently in the *Trade Marks Journal*, and shall enter in the register the date when such entries were made. The expression "the expiration of the last registration" shall have regard to the same date in the case of all the resulting entries for the purpose of determining the next renewal thereof in accordance with section *twenty-five* as it had with regard to the registration before conversion.

(As amended by F.G.N. No. 57 of 1960)

9. Subject to any other directions that may be given by the Registrar, all applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act or these Regulations to be made, left or sent, at or to the Office, shall, unless the Registrar otherwise directs, be written, typewritten, lithographed or printed in the English language upon strong paper, in dark, indelible ink, on one side only, of a size approximately 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than 1 1/2 inches.

Size, etc., of documents

10. A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners or by any qualified partner stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorised to sign the document. A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorised to sign the document. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who appears to the Registrar to be duly qualified.

Signature of documents by partnerships, companies and associations

11. All applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act or these Regulations to be made, left or sent, at or to the Office or with or to any other person may be sent through the post by a prepaid letter; any application or any document so sent shall be deemed to have been made, left or sent at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

Service of documents

12. (1) Where any person is by the Act or these Regulations bound to furnish the Registrar with an address, the address given shall in all cases be as full as possible for the purpose of enabling any person easily to find the place of trade or business of the person whose address is given.

Address

(2) The Registrar may require the address to include the name of the street and the number of the street or name of the premises, if any.

Address for
service

13. (1) The Registrar may require an applicant, opponent or agent, or a registered proprietor or registered user of a trade mark, who does not reside or carry on business within Zambia, to give an address for service within Zambia and such address may be treated as the actual address of that person for all purposes connected with the matter in question.

(2) Any registered proprietor or registered user of a trade mark, or any person about to be registered as such, may, if he so desires, give an address for service for entry in the register, and such address may be entered by the Registrar.

(3) In any case in which no address for service is entered in the register, the Registrar may treat the trade or business address of the registered proprietor or registered user as therein entered as his address for service for all purposes connected with the registration.

(4) Any written communication addressed to a party or person as aforesaid at an address given by him, or treated by the Registrar, as his address for service shall be deemed to be properly addressed.

(5) The Registrar, at any time that a doubt arises as to the continued availability of an address for service entered in the register, may request the person for whom it is entered, by letter addressed to his trade or business address in the register, to confirm the address for service, and if within three months of making such request the Registrar receives no confirmation of that address, he may strike it off the register.

Agency

14. (1) Except as otherwise required by these Regulations, any application, request or notice which is required or permitted by the Act or these Regulations to be made or given to the Registrar, and all other communications between an applicant or a person making such a request or giving such a notice and the Registrar, and between the registered proprietor or a registered user of a trade mark and the Registrar or any other person, may be signed, made or given by or through an agent.

(2) Any such applicant, person making request or giving notice, proprietor or registered user may appoint an agent to act for him in any proceeding or matter before or affecting the Registrar under the Act and these Regulations by signing and sending to the Registrar an authority to that effect in the Form T.M. No. 1, or in such other written form as the Registrar may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing him, all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent, and all attendances upon the Registrar relating thereto may be made by or through such agent. In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(3) The Registrar shall not be bound to recognise as such agent any person—

- (a) who has been proved to him to have been guilty of conduct discreditable to a trade mark agent; or
- (b) who has been convicted of a criminal offence and sentenced to imprisonment without the option of a fine; or
- (c) who has been suspended from practice as a legal practitioner or whose name has been struck off the roll of legal practitioners in Zambia; or
- (d) who has been adjudged guilty of conduct discreditable to a patent agent; or
- (e) who has been suspended from practice as a patent agent, or whose name has been erased from the register of patent agents kept under the provisions of the Patents Act, and not subsequently restored.

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15. (1) The Registrar may refuse to accept any application for the registration of a mark upon which any of the following appear:

Registrable
trade marks

- (a) the words “Patent”, “Patented”, “Registered”, “Registered Design”, “Copyright”, “Entered at Stationers’ Hall”, “To counterfeit this is a forgery”, or words to like effect;
- (b) representations of the President, or any colourable imitations thereof;
- (c) the words “Red Cross” or “Geneva Cross”, and representations of the Geneva and other crosses in red, or of the Swiss Federal cross in white on a red ground or silver on a red ground, or such representations in a similar colour or colours.

(2) Where there appears in a trade mark the registration of which is applied for a representation of a cross in any colour, not being one of those mentioned in paragraph (c) of subregulation (1), the Registrar 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 silver on a red ground, or in any similar colour or colours.

(As amended by S.I. No. 307 of 1965)

16. The following features may not appear on trade marks the registration of which is applied for:

Armorial
Ensigns,
National Flag,
etc.

- (a) representations of the Armorial Ensigns of Zambia or devices so nearly resembling it as to be likely to be mistaken for it;
- (b) representations of the National Flag of Zambia;
- (c) any words, such as “the President”, “Republic” or “Zambia”, or any letters or devices if used in such a manner as to be likely to lead persons to think that the applicant either has

or recently has had the patronage or authorisation of the President or patronage or authorisation from the Government of the Republic of Zambia, whether or not such may be the case.

(As amended by S.I. No. 307 of 1965)

Arms of city,
etc.

17. Where a representation of the armorial bearings, insignia, orders of chivalry, decorations or flags of any state, city, borough, town, place, society, body corporate, institution or person appears on a mark, the Registrar, before proceeding to register the mark, shall, if he so requires, be furnished with a consent to the registration and use of such emblems from such official or other person as appears to the Registrar to be entitled to give consent, and in default of such consent he may refuse to register the mark.

Consent of
person to use
of name or
representation

18. Where the name or representation of any person appears on a trade mark, the Registrar shall, if he so requires, before proceeding to register the mark, be furnished with consent from him or, in the case of a person recently dead, from his legal representative, and in default of such consent he may refuse to register the mark.

Name or
description of
goods on a
trade mark

19. (1) Where the name or description of any goods appears on a trade mark, the Registrar may refuse to register such mark in respect of any goods other than the goods so named or described.

(2) Where the name or description of any goods appears on a trade mark, which name or description in use varies, the Registrar may permit the registration of the mark for those and other goods, and in that case the applicant shall state in his application 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.

Preliminary
advice by
Registrar as to
distinctiveness

20. (1) Any 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 may apply to the Registrar on Form T.M. No. 30, or on Form T.M. No. 29 in a case where he is also making an application under regulation 113, for advice as to whether the trade mark, of which duplicate representations shall accompany the form, appears to the Registrar *prima facie* to be inherently adapted to distinguish within the meaning of section *fourteen* or *fifteen*, as the case may be, in relation to those goods, and shall apply separately in relation to goods comprised within different classes of goods in the Fourth Schedule.

(2) A notice of withdrawal of an application for the registration of a trade mark given under subsection (3) of section *forty-three* for the purpose of obtaining repayment of any fee paid on the filing of the application shall be given in writing within two months from the date of the notice of the Registrar's objection.

21. (1) An application to the Registrar for the registration of a trade mark shall be signed by the applicant or his agent. For a trade mark other than a certification or defensive trade mark the application shall be made on Form T.M. No. 2. For a certification or a defensive trade mark the application shall be made on Form T.M. No. 5 or Form T.M. No. 33 respectively. Each application shall be for registration in respect of goods in one class of the Fourth Schedule only.

Form of
application.
Specification

(2) Every application claiming priority under section *seventy-three* by reason of an application to register the trade mark made or deemed to have been made in a convention country, which shall be named in the application, shall state the date of that application, and the applicant shall furnish a certificate by the registrar or other registering authority of that country, or shall otherwise verify the application made or deemed to have been made therein to the satisfaction of the Registrar.

(3) In the case of an application for registration in respect of all the goods included in a class, or of a large variety of goods, the Registrar 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.

(4) For the purposes of the provisions of subsection (2) of section *twenty-two*, an application shall be made on Form T.M. No. 2, subject to such modifications as the Registrar may approve.

(As amended by F.G.N. No. 11 of 1961)

22. An application for the registration of a trade mark shall be addressed and sent to the Registrar at the Office.

Address for
application

23. (1) Every application for the registration of a trade mark shall contain a representation of the mark in the space provided on the application form for that purpose.

Representation
of mark

(2) Where the representation exceeds such space in size, the representation shall be mounted upon linen, tracing cloth or such other material as the Registrar may consider suitable. Part of the mounting shall be affixed in the space aforesaid and the rest may be folded.

(3) In the case of word marks represented in plain letters, the word shall be printed or stencilled in letters of not less than $\frac{3}{8}$ inch in size.

24. There shall be sent with every application for registration of a trade mark (other than a certification trade mark) six additional representations of the mark on Form T.M. No. 3. The representation of the mark on the application and its duplicate (if any) and the additional representations shall correspond exactly. The additional representations shall in all cases be noted with all such particulars as may from time to time be required by the Registrar. Such particulars shall, if required, be signed by the applicant or his agent.

Additional
forms and
representa-
tions

[SUBSIDIARY]

Trade Marks Regulations

Representations to be durable

25. All representations of marks must be of a durable nature, but the applicant may in case of need supply, in place of representations on Form T.M. No. 3, such representations on sheets of strong paper as may be approved by the Registrar.

Separate applications

26. Applications for the registration of the same mark in different classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods in more than one class, whether on conversion of the specification under regulation 6 or otherwise, the registration in respect of the goods included in each separate class shall be deemed to be a separate registration for all the purposes of the Act.

Representations to be satisfactory

27. The Registrar, 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.

Specimens of trade marks in exceptional cases

28. (1) Where a drawing or other representation or specimen cannot be given in the manner aforesaid, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale and in such form as the Registrar may think most convenient.

(2) The Registrar may also, in exceptional cases, deposit in the Office a specimen or copy of any trade mark which cannot conveniently be shown by a representation, and may refer thereto in the register in such manner as he may think fit.

Series of trade marks

29. Where application is made for the registration of a series of trade marks under subsection (2) of section *twenty-six*, a representation of each trade mark of the series shall be included, all as aforesaid, in the application form, in the duplicate thereof (if any), and six representations of each trade mark of the series shall be pinned on the accompanying Form T.M. No. 3.

Transliteration and translation

30. (1) Where a trade mark contains a word or words in characters other than Roman, there shall, unless the Registrar otherwise directs, be endorsed on the application form; and on the accompanying Form T.M.No. 3, a sufficient transliteration and translation to the satisfaction of the Registrar of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant or his agent.

(2) Where a trade mark contains a word or words in a language other than English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be endorsed and signed as aforesaid.

Search

31. Upon receipt of an application for the registration of a trade mark in respect of any goods, the Registrar shall cause a search to be made amongst the registered marks and pending applications, for the purpose of ascertaining whether there are on record in respect of the

same goods or description of goods any marks identical with the mark applied for, or so nearly resembling it as to render the mark applied for likely to deceive or cause confusion, and the Registrar may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

32. After such search, and consideration of the application, and of any evidence of use or of distinctiveness or of any other matter which the applicant may furnish or may be required to furnish, the Registrar may accept the application absolutely, or he may object to it, or he may express his willingness to accept it subject to such conditions, amendments, disclaimer, modifications or limitations as he may think right to impose.

Acceptance,
absolute or
conditional;
objection

33. If the Registrar objects to the application, he shall inform the applicant of his objections in writing and, unless within two months the applicant applies for a hearing or makes a considered reply in writing to those objections, he shall be deemed to have withdrawn his application.

Registrar's
objections.
Hearing

34. If the Registrar is willing to accept the application subject to any conditions, amendments, disclaimer, modifications or limitations, he shall communicate such willingness to the applicant in writing, and, if the applicant objects to such conditions, amendments, disclaimer, modifications or limitations, he shall within two months from the date of the communication apply for a hearing or communicate his considered objections in writing, and if he does not do so he shall be deemed to have withdrawn his application. If the applicant does not object to such conditions, amendments, disclaimer, modifications or limitations, he shall forthwith notify the Registrar in writing and alter his application accordingly.

Registrar's
conditions,
etc. Hearing

35. (1) The decision of the Registrar, at a hearing in accordance with regulation 33 or 34, or without a hearing if the applicant has duly communicated his considered objections or considered reply, in writing, and has stated that he does not desire to be heard, shall be communicated to the applicant in writing and, if the applicant objects to such decision, he may within two months by applying upon Form T.M. No. 4 require the Registrar to state in writing the grounds of, and the materials used by him in arriving at, his decision.

Decision of
Registrar

(2) In a case where the Registrar makes any requirements to which the applicant does not object, the applicant shall comply therewith before the Registrar issues such statement in writing. The date when such statement is sent to the applicant shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

36. The Registrar may call on an applicant to insert in his application such disclaimer as the Registrar may think fit, in order that the public generally may understand what the applicant's rights, if his mark is registered, will be.

Disclaimer

[SUBSIDIARY]

Trade Marks Regulations

Application
under
section 32

37. An application for the registration of a defensive trade mark under section *thirty-two* shall be made, addressed and sent to the Registrar on Form T.M. No. 33, and shall be accompanied by a statement of case setting forth the full particulars of the facts on which the applicant relies in support of his application, verified by an affidavit or solemn declaration made by the applicant or some other person approved for the purpose by the Registrar. The applicant may send with this declaration, or subsequently, such other evidence as he may desire to furnish, whether after request made by the Registrar or otherwise, and the Registrar shall consider the whole of the evidence before deciding on the application. In all other respects, and where they are appropriate and it is not otherwise stated, these Regulations shall apply to such applications as they apply to applications for the registration of ordinary trade marks.

Application
under
section 42

38. An application for the registration of a certification trade mark under section *forty-two* shall be made to the Registrar on Form T.M. No. 5 and shall be accompanied by six additional representations of the trade mark on Form T.M. No. 3.

Authorisation
to proceed

39. (1) These Regulations shall apply to such applications as they apply to applications for the registration of ordinary trade marks, except that for references therein to acceptance of an application there shall be substituted references to authorisation to proceed with the application, and that the applicant shall not be deemed to have abandoned his application if in the circumstances of regulation 33 or 34 he does not apply for a hearing or reply in writing.

(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 Regulations.

Case; draft
regulations

40. The applicant shall send to the Registrar with his application or when required by the Registrar a 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 and Form T.M. No. 34, all being in duplicate. The Registrar may communicate to the applicant any observations he may have to make on the sufficiency of the case or the suitability of the draft regulations and the applicant may modify either of those documents.

Directions by
Registrar

41. If the Registrar decides to authorise the application to proceed, he may at any time call for such evidence, if any, as he thinks fit, and shall if required hear the applicant before giving directions as provided in sub-paragraph (5) of paragraph I of the Schedule to the Act. When such directions have been given and the application has been accepted, the regulations for governing the use of the mark approved by the Registrar, as well as the form of application, shall be open to public inspection.

42. (1) An application for the registration of a trade mark required or permitted to be advertised by subsection (1) of section *twenty-three* or paragraph 2 of the Schedule to the Act, shall be advertised in Form T.M. No. 44 in the *Trade Marks Journal*. In the case of an application with which the Registrar proceeds only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant, the words "By Consent" shall appear in the advertisement.

Advertisement
of application

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

(As amended by F.G.N. No. 57 of 1960)

43. For the purposes of such advertisement the applicant may, at the appropriate time, supply or be required to supply a printing block (or more than one, if necessary) of the trade mark satisfactory to the Registrar, of such dimensions as may from time to time be approved or directed by the Registrar, or shall supply such information or other means of advertising the trade mark as may be required by the Registrar; and the Registrar, if dissatisfied with the printing block supplied by the applicant or his agent, may require a fresh block before approving of the advertisement.

Wood block
or electrotype
printing

44. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in subsection (2) of section *twenty-six*, the applicant may be required to supply a printing block (or more than one, if necessary) satisfactory to the Registrar of any or of each of the trade marks constituting the series; or the Registrar may, if he thinks fit, direct that there shall be inserted with the advertisement of the application a statement of the manner in which the several trade marks differ from one another.

Advertisement
of series

45. Advertisements under subsection (10) of section *twenty-three* and under subsections (2) and (4) of section *forty* shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration.

Advertisement
under sections
23 and 40

46. Any person may within two months from the date of any advertisement in the *Trade Marks Journal* of an application for registration of a trade mark give notice on Form T.M. No. 6 to the Registrar of opposition to the registration.

Opposition

(As amended by F.G.N. No. 57 of 1960)

47. The notice shall include a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the mark resembles marks already on the register, the numbers of such trade marks and the dates of the *Trade Marks Journal* in which they have been advertised shall be set out.

Notice of
opposition

The notice shall be accompanied by a duplicate which the Registrar will forthwith send to the applicant.

(As amended by F.G.N. No. 57 of 1960)

Counter-
statement

48. Within two months from the receipt of such duplicate, the applicant shall send to the Registrar a counter-statement on Form T.M. No. 7 setting out the grounds on which he relies as supporting his application. The applicant shall also set out what facts, if any, alleged in the notice of opposition he admits. The counter-statement shall be in duplicate.

Evidence in
support of
opposition

49. Upon receipt of the counter-statement and duplicate, the Registrar shall forthwith send the duplicate to the opponent and, within two months from the receipt of the duplicate, the opponent shall leave with the Registrar such evidence by way of affidavit or solemn declaration as he may desire to adduce in support of his opposition and shall deliver to the applicant a copy of such evidence.

Evidence in
support of
application

50. (1) If an opponent leaves no evidence, he shall, unless the Registrar otherwise directs, be deemed to have abandoned his opposition but, if he does leave evidence, then, within two months from the receipt of the copies of such evidence, the applicant shall leave with the Registrar such evidence by way of affidavit or solemn declaration as he desires to adduce in support of his application and shall deliver to the opponent a copy thereof.

(2) An applicant shall, unless the Registrar otherwise directs, be deemed to have withdrawn his application if, within the period of two months referred to in sub-regulation (1), he—

- (a) fails to leave with the Registrar such evidence as he desires to adduce in support of his application; or
- (b) fails to notify the Registrar in the event of his not desiring to adduce evidence in support of his application.

(As amended by F.G.N. No. 11 of 1961)

Evidence in
reply by
opponent

51. Within two months from the receipt by the opponent of the copy of the applicant's affidavit or solemn declaration, the opponent may leave with the Registrar evidence by affidavit or solemn declaration in reply, and shall deliver to the applicant a copy of such evidence. This evidence shall be confined to matters strictly in reply.

Further
evidence

52. No further evidence shall be left on either side but, in any proceedings before the Registrar, 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.

Exhibits

53. Where there are exhibits to affidavits or solemn declarations filed in an opposition, a copy or impression of each exhibit shall be sent to the other party on his request and at his expense, or, if such

copies or impressions cannot conveniently be furnished, the originals shall be left with the Registrar in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

54. Upon completion of the evidence, the Registrar 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 fourteen days after the date of the notice, unless the parties consent to a shorter notice. Within seven days from the receipt of the notice, any party who intends to appear shall so notify the Registrar on Form T.M. No. 8. A party who receives notice as aforesaid and who does not, within seven days from the receipt thereof, so notify the Registrar on Form T.M. No. 8 may be treated as not desiring to be heard and the Registrar may act accordingly.

Hearing

55. Where in opposition proceedings any extension of time is granted to any party, the Registrar 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.

Extension of time

56. 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 Zambia, the Registrar may require him to give security, in such form as the Registrar may deem sufficient, for the costs of the proceedings before the Registrar, for such amount as to the Registrar may seem fit, and at any stage in the opposition proceedings may require further security to be given at any time before giving his decision in the case.

Security for costs

57. In the event of an opposition being uncontested by the applicant, the Registrar 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.

Costs in uncontested case

58. Within two months from the date of any advertisement in the *Trade Marks Journal* of an application for the registration of a certification trade mark, any person may give notice to the Registrar on Form T.M. No. 37 of opposition under paragraph 2 of the Schedule to the Act, and regulations 47 to 57 shall apply *mutatis mutandis* to the proceedings thereon, with substitution of Form T.M. No. 38 for Form T.M. No. 7, and of Form T.M. No. 39 for Form T.M. No. 8. In any case of doubt any party may apply to the Registrar for directions.

Opposition to application under section 42

(As amended by F.G.N. No. 57 of 1960)

59. Where registration of a trade mark is not completed within twelve months from the date of application by reason of default on the part of the applicant, the Registrar shall on Form T.M. No. 9 give notice in writing to the applicant at his trade or business address of the non-completion, but if the applicant has authorised an agent for

Non-completion within twelve months

the purpose of the application, he shall instead send the notice to the agent and shall send a duplicate thereof to the applicant. If after fourteen days from the date when the notice was sent, or such further time as the Registrar may allow, the registration is not completed, the application shall be deemed to be abandoned.

Entry in
register

60. (1) As soon as may be after the expiration of two months from the date of the advertisement in the *Trade Marks Journal* of any application for the registration of a trade mark, the Registrar shall, subject to any opposition and the determination thereof, and subject to the provisions of subsection (1) of section *twenty-four*, and upon payment of the prescribed fee on Form T.M. No. 10, enter the trade mark in the register. In those cases where the applicant has supplied a printing block in accordance with regulation 43, he shall send with his fee a representation of the trade mark agreeing in all respects with the representation then appearing on the form of application, to be affixed by the Registrar to the certificate of registration as required by regulation 63. The entry of a trade mark in the register shall give the date of the registration, the goods in respect of which it is registered, and all particulars named in subsection (1) of section *six*, including both the trade or business address and the address for service (if any), particulars of the trade, business, profession, occupation or other description of the proprietor, particulars of any undertakings by the proprietor entered on the form of application, particulars affecting the scope of the registration or the rights conferred by the registration and such other particulars as are prescribed.

(2) In the case of an application as aforesaid which the Registrar accepts only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant for registration, the aforesaid entry in the register shall state that it is "By Consent" and shall give the number of the previous registration or the application for registration.

(As amended by F.G.N. No. 57 of 196

Associated
marks

61. (1) Where a mark is registered as associated with any other mark or marks, the Registrar shall note in the register in connection with the first-mentioned mark the numbers of the marks with which it is associated and shall also note in the register in connection with each of the associated marks the number of the first-mentioned mark as being a mark associated therewith.

(2) An application by a registered proprietor under subsection (5) of section *twenty-eight* to the Registrar to dissolve the association between two or more associated trade marks shall be made on Form T.M. No. 20, and shall include a statement of the grounds of the application.

Death of
applicant
before
registration

62. 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 Registrar, 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 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 Registrar.

63. Upon the registration of a trade mark, the Registrar shall issue to the applicant a certificate in Form T.M. No. 11, and shall affix thereto a copy of the mark, which may be a representation thereof supplied by the applicant under regulation 60.

Certificate of registration

64. At any time not more than six months before the expiration of the last registration of a trade mark, any person may leave at the Office a fee for the renewal of the registration of the mark with Form T.M. No. 12, and, if he is not the registered proprietor, shall sign a statement on the form that he is directed by the registered proprietor to pay the fee (if such be the case) and shall give his address. Before taking any further step, the Registrar may either—

Renewal of registration

- (a) require the person leaving the fee to furnish within fourteen days an authority to pay the fee signed by the registered proprietor and, if he does not furnish such authority, may return the fee and treat it as not received: or
- (b) communicate with the registered proprietor stating that the fee has been received and that the registration will in due course be renewed.

65. At a date not less than three months and not more than six months before the expiration of the last registration of a mark, if no fee with Form T.M. No. 12 has been received, the Registrar shall notify the registered proprietor in writing of the approaching expiration.

Notice before removal of trade mark from register

66. At a time not less than fourteen days and not more than one month before the expiration of the last registration of a mark, the Registrar may, if no fee as aforesaid has been received, send a notice in writing to the registered proprietor at his trade or business address as well as at his address for service, if any.

Second notice

67. If at the date of the expiration of the last registration of a mark the renewal fee has not been paid, the Registrar shall advertise the fact forthwith in the *Trade Marks Journal*. If the Registrar receives the renewal fee with Form T.M. No. 12, together with an additional fee accompanying Form T.M. No. 13, at any time during the period between such date of expiration and one month after such advertisement, he may renew the registration without removing the mark from the register.

Advertisement of non-payment

[SUBSIDIARY]

Trade Marks Regulations

Removal of
trade mark
from register

68. Where, at the expiration of one month from the advertisement mentioned in regulation 67, the fees therein mentioned have not been paid, the Registrar may remove the mark from the register as of the date of the expiration of the last registration, but may, upon payment of the renewal fee with Form T.M. No. 12 together with a restoration fee accompanying Form T.M. No. 14, restore the mark to the register if satisfied that it is just so to do and upon such conditions as he may think fit to impose.

Record of
removal of
mark

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

Notice and
advertisement
of renewal and
restoration

70. 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 *Trade Marks Journal*.

(As amended by F.G.N. No. 57 of 1960)

Joint applica-
tion for entry
of assignment
or transmis-
sion

71. Where a person becomes entitled by assignment or transmission to a registered trade mark he may, conjointly with the registered proprietor, make application to the Registrar on Form T.M. No. 16 to register his title.

Application
for entry of
assignment or
transmission
by subsequent
proprietor

72. Where a person becomes entitled to a registered trade mark in the manner referred to in regulation 71, and no conjoint application as therein mentioned is made, he shall make application to the Registrar on Form T.M. No. 17 to register his title.

Particulars to
be stated in
application

73. An application under regulation 71 or 72 shall contain the name, trade or business address and description of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims, and such instrument shall be produced for inspection by the Registrar, preferably at the time of application. The full names of all the partners in a partnership shall be given in the body of the application. The Registrar may in any case require and retain an attested copy of any instrument produced for inspection in proof of title, but such copy shall not be open to public inspection.

Case accom-
panying
application

74. Where, in the case of an application on Form T.M. No. 16 or No. 17, the person applying for registration of his title does not claim under any document or instrument which is capable in itself of furnishing proof of his title, he shall, unless the Registrar 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, and showing that the trade mark has been assigned or transmitted to him. If the Registrar so requires, the case shall be verified by affidavit or solemn declaration on Form T.M. No. 18.

75. The Registrar 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 may require for his satisfaction.

Proof of title

76. (1) An application under regulation 71 or 72 relating to an assignment, on or after the commencement of the Act, of a trade mark in respect of any goods shall state—

Application for entry of assignment without goodwill

- (a) whether the trade mark was, at the time of the assignment, used in a business in any of those goods; and
- (b) whether the assignment was made otherwise than in connection with the goodwill of that business; and, if both those circumstances subsisted, then the applicant shall leave with the Registrar a copy of the Registrar's directions to advertise the assignment, obtained upon application under subsection (7) of section *twenty-seven* and regulation 80, and such proof, including copies of advertisements or otherwise, as the Registrar may require that his directions have been fulfilled; and, if the Registrar is not satisfied that the directions have been fulfilled, he shall not proceed with the application.

(2) For the purposes of subsection (3) of section *thirty-four*, the period within which a corporation may be registered as the subsequent proprietor of a registered trade mark, upon application made under regulation 71 or 72, shall be six months from the date of advertisement in the *Trade Marks Journal* of the registration of the trade mark or such further period not exceeding six months as the Registrar may allow, on application being made to him on Form T.M. No. 15 by the applicant for registration of title or the registered proprietor, as the case may be, at any time before or during the period for which the extension can be allowed.

(As amended by F.G.N. No. 57 of 1960)

77. When the Registrar is satisfied as to the title of the person claiming to be registered, he 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 and particulars of the assignment or transmission.

Entry in register

78. Where, pursuant to an application under regulation 71 or 72, and as the result of a division and separation of the goods of a registration or a division and separation of places or markets, different persons become registered separately under the same official 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.

Separate registrations

[SUBSIDIARY]

Trade Marks Regulations

Registrar's
certificate or
approval as to
certain assign-
ments and
transmissions

79. Any person who desires to obtain the Registrar's certificate under subsection (5) of section *twenty-seven*, or his notification of approval under subsection (6) of section *twenty-seven*, shall send to the Registrar, with his application on Form T.M. No. 40 or No. 41, as the case may be, a statement of case in duplicate setting out the circumstances, and a copy of any instrument or proposed instrument effecting the assignment or transmission. The Registrar may call for any evidence or further information that he may consider necessary, and the statement of case shall be amended if required to include all the relevant circumstances and shall if required be verified by affidavit or solemn declaration. The Registrar, after hearing if so required the applicant and any other person whom the Registrar may consider to be interested in the transfer, shall consider the matter and issue a certificate thereon or a notification in writing of approval or disapproval thereof, as the case may be. Where a statement of case is amended, two fair copies thereof in its final form shall be left with the Registrar. The Registrar shall seal a copy of the statement of case in its final form to the certificate or notification.

Registrar's
directions for
advertisement
of assignment
without good-
will of trade
mark in use

80. (1) An application to the Registrar under subsection (7) of section *twenty-seven* shall be made by the assignee on Form T.M. No. 42 and shall state the date on which the assignment was made. The application shall give particulars of the registration in the case of a registered trade mark, and, in the case of an unregistered trade mark, shall show the mark and give particulars of the registered trade mark that has been assigned therewith in accordance with subsection (3) of section *twenty-seven*. The Registrar may call for any evidence or further information and, if he is satisfied with regard to the various matters, he shall issue directions in writing with respect to the advertisement of the assignment.

(2) The Registrar may refuse to consider such an application in a case to which subsection (6) of section *twenty-seven* applies, unless his approval has been obtained under the said subsection and a reference identifying the Registrar's notification of approval is included in the application.

(3) A request to the Registrar for an extension of the period within which the application may be made, which shall be on Form T.M. No. 43, may be made at any time before or during the period for which extension can be allowed. The extension of the period which the Registrar may allow shall be at his discretion.

(As amended by S.I. No. 223 of 1965)

Alteration of
address in
register

81. (1) A registered proprietor or registered user of a trade mark whose trade or business address or address for service is changed so that the entry in the register is rendered incorrect shall forthwith request the Registrar on Form T.M. No. 19 to make the appropriate alteration of the address in the register, and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(2) A registered proprietor or registered user of a trade mark whose registered trade or business address or address for service is altered by a public authority, so that the changed address designates the same premises as before, may make the aforesaid request to the Registrar on Form T.M. No. 19, and if he does so he shall leave therewith a certificate of the alteration given by the said authority. If the Registrar is satisfied as to the facts of the case, he shall alter the register accordingly, but shall not require the payment of the prescribed fee.

(3) In case of the alteration of the address of a person entered in the register as the address for service of more than one registered proprietor or registered user of trade marks, the Registrar may, on proof that the said address is the address of the applicant and if satisfied that it is just so to do, accept an application from that person on Form T.M. No. 19 amended so as to suit the case for the appropriate alteration of the entries of his address as the address for service in the several registrations, particulars of which shall be given in the form, and may alter the entries accordingly.

(4) All applications under this regulation on Form T.M. No. 19 shall be signed by the registered proprietor or the registered user, as the case may be, or by an agent expressly authorised by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

82. An application to the Registrar under any of the sections *thirty-one, thirty-two, thirty-seven or thirty-eight* for the making, expunging or varying of any entry in the register shall be made on Form T.M. No. 27, and shall be accompanied by a statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks. Where the application is made by a person who is not the registered proprietor of the trade mark in question, it shall be accompanied by a copy of the application and a copy of the statement, and these copies shall be transmitted forthwith by the Registrar to the registered proprietor.

Application to rectify, or remove a trade mark from, the register

83. Upon such application being made, and copy thereof transmitted to the registered proprietor, if necessary, the provisions of regulations 48 to 57 shall apply *mutatis mutandis* to the further proceedings thereon; but the Registrar shall not rectify the register or remove the mark from the register merely because the registered proprietor has not filed a counterstatement. In any case of doubt any party may apply to the Registrar for directions.

Further procedure

84. Any person other than the registered proprietor alleging interest in a registered trade mark in respect of which an application is made on Form T.M. No. 27 may apply to the Registrar on Form T.M. No. 28 for leave to intervene, stating thereon the nature of his interest, and the Registrar may refuse or grant such leave, after hearing (if so required) the parties concerned, upon such conditions and

Intervention by third parties

terms as he may deem fit. Before dealing in any way with the application for leave to intervene, the Registrar may require the applicant to give an undertaking to pay such costs as in the circumstances he may award to any party.

Application
under section
39 (1)

85. An application to the Registrar under subsection (1) of section *thirty-nine* for the alteration of the register by correction, change, cancellation or striking out goods, or for the entry of a disclaimer or memorandum, may be made by the registered proprietor of the trade mark or by such person as may satisfy the Registrar that he is entitled to act in the name of the registered proprietor. Such applications shall be made on Form T.M. No. 19, No. 21, No. 22, No. 23, No. 24 or No. 25, as may be appropriate.

Evidence

86. In the case of an application as in regulation 85, the Registrar may require such evidence by affidavit, solemn declaration or otherwise as he may think fit as to the circumstances in which the application is made.

Advertisement
of certain
applications

87. Where application is made on Form T.M. No. 25 to enter a disclaimer or memorandum relating to a trade mark, the Registrar, before deciding upon such application, shall direct the applicant to advertise the application in the *Trade Marks Journal* in order to enable any person desiring so to do to state, within two months of the advertisement, any reasons in writing against the making of the entry of the disclaimer or memorandum.

(As amended by F.G.N. No. 57 of 1960)

Certificates of
validity to be
noted

88 Where the High Court or the Tribunal has certified as provided in section *fifty-eight* with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar on Form T.M. No. 49 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 form. A certified copy of the certificate shall be sent with the request, and the Registrar shall so note the register and direct the proprietor to publish the note in the *Trade Marks Journal*.

(As amended by F.G.N. No. 57 of 1960)

Alteration of
registered
mark

89. Where a person desires to apply under section *forty* that his registered trade mark may be added to or altered, he shall make his application on Form T.M. No. 26 and shall furnish the Registrar with six copies of the mark as it will appear when so added to or altered.

Advertisement
before
decision

90. The Registrar shall consider the application and shall, if it appears to him expedient, direct the registered proprietor to advertise the application in the *Trade Marks Journal* before deciding it. Within two months from the date of such advertisement, any person may give notice of opposition to the application on Form T.M. No. 47 accompanied by a duplicate of the notice, and may also send there-

with a further statement of his objections in duplicate. The Registrar shall send the duplicate notice, and the duplicate of any further statement of objections, to the applicant, and the provisions of regulations 48 to 57 shall apply *mutatis mutandis* to the further proceedings thereon. In any case of doubt any party may apply to the Registrar for directions.

(As amended by F.G.N. No. 57 of 1960)

91. If the Registrar decides to allow the application, 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 regulation 90, he shall direct the registered proprietor to advertise it in the *Trade Marks Journal*.

Advertisement
after decision

(As amended by F.G.N. No. 57 of 1960)

92. In connection with an application to alter a registered trade mark, the Registrar may at any time call on the applicant to supply a printing block satisfactory to the Registrar and suitable for advertising the mark with the addition or alteration as aforesaid, if in the opinion of the Registrar an advertisement describing the addition or alteration in words would not be likely to be understood by persons interested in the matter.

Supply of
printing block

93. An application on any of the grounds mentioned in paragraph 4 of the Schedule to the Act, made by an aggrieved person to the Registrar for an order expunging or varying an entry in the register of or relating to a certification trade mark, or varying the relevant deposited regulations, shall be made on Form T.M. No. 36 and shall include full particulars of the grounds on which the application is made.

Orders for
rectification of
certification
trade mark
entries and
regulations

94. An application by the registered proprietor of a certification trade mark for an alteration of the deposited regulations and the consent of the Registrar thereto shall be made on Form T.M. No. 35. Where the Registrar causes such an application to be advertised, the time within which any person may give notice to the Registrar of opposition to the application shall be two months from the date of the advertisement.

Alteration of
certification
trade mark
regulations

95. Where any document is by these Regulations directed to be served upon the Registrar, it shall be served in duplicate.

Service of
documents

96. An application to the Registrar for the registration under section *thirty-three* of a person as a registered user of a registered trade mark shall be made by that person and the registered proprietor on Form T.M. No. 50.

Application
for entry of
registered user

97. The date of an entry of a registered user in the register shall be the date upon which the application for registration as a registered user was made. In addition to the trade or business address of the registered user, it may include an address for service, if such has been

Entry and
notification

approved. A notification in writing of the registration of a registered user shall be sent to the registered proprietor of the trade mark, to the registered user and to every other registered user whose name is entered in relation to the same registration of a trade mark, and shall be inserted by the registered proprietor in the *Trade Marks Journal*.

(As amended by F.G.N. No. 57 of 1960)

Registered proprietor's application to vary entry

98. An application by the registered proprietor of a trade mark for the variation of the registration of a registered user of that trade mark under paragraph (a) of subsection (8) of section *thirty-three* shall be made on Form T.M. No. 51, and shall be accompanied by a statement of the grounds on which it is made and, where the registered user in question consents, by the written consent of that registered user.

Application by registered proprietor or user to cancel entry

99. An application by the registered proprietor or any registered user of a trade mark for the cancellation of the registration of a registered user of that trade mark under paragraph (b) of subsection (8) of section *thirty-three* shall be made on Form T.M. No. 52, and shall be accompanied by a statement of the grounds on which it is made.

Application under section 33 (8) (c) to cancel entry

100. An application by any person for the cancellation of the registration of a registered user under paragraph (c) of subsection (8) of section *thirty-three* shall be made on Form T.M. No. 53, and shall be accompanied by a statement of the grounds on which it is made.

Notification and hearing

101. The Registrar shall notify in writing applications under regulations 98, 99 and 100 to the registered proprietor and each registered user (not being the applicant) under the registration of the trade mark. Any person so notified who intends to intervene in the proceedings shall within two months of the receipt of such notification give notice to the Registrar on Form T.M. No. 54 to that effect and shall send therewith a statement of the grounds of his intervention. The Registrar shall thereupon send copies of such notice and statement to the other parties, so that the intervention may be known to the applicant, the registered proprietor, the registered user whose registration is in suit, and any other registered user who intervenes. Any such party may, within such time or times as the Registrar may appoint, leave evidence in support of his case, and the Registrar after giving the parties an opportunity of being heard may accept or refuse the application or accept it subject to such conditions, amendments, modifications or limitations as he may think right to impose.

Registered user's application under section 39 (2)

102. (1) Applications under subsection (2) of section *thirty-nine* shall be made on Form T.M. No. 19, No. 21 or No. 22, as may be appropriate, by a registered user of a trade mark, or by such person as may satisfy the Registrar that he is entitled to act in the name of a registered user; and the Registrar may require such evidence by affidavit or solemn declaration or otherwise as he may think fit as to the circumstances in which the application is made.

(2) In case of the registration of a registered user of a period, in accordance with paragraph (d) of subsection (4) of section *thirty-three*, the Registrar shall cancel the entry of the registered user at the end of the period. Where some or all of the goods are struck out from those in respect of which a trade mark is registered, the Registrar shall at the same time strike them out from those specifications of registered users of the trade mark in which they are comprised. The Registrar shall notify every cancellation or striking out under this sub-regulation to the registered users whose permitted use is affected thereby and the registered proprietor of the trade mark.

103. If in any particular case the Registrar is satisfied that the circumstances are such as to justify an extension of the time for doing any act or taking any proceedings under these Regulations, not being a time expressly provided in the Act or prescribed by regulation 76 or 80, he may extend the time upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act or taking the proceeding.

Extension of time

104. Whenever the last day fixed by these Regulations for doing any act or thing at the Office shall fall on a day when the Office is not open, which day shall be an excluded day for the purposes of these Regulations, it shall be lawful to do the act or thing on the first day following such excluded day which is not an excluded day.

Excluded days

(As amended by F.G.N. No. 11 of 1961)

105. Before exercising adversely to any person any discretionary power given to the Registrar by the Act or by these Regulations, the Registrar shall, if so required, hear such person thereon.

Hearing

106. An application for a hearing shall be made within one month from the date of notification by the Registrar of any objection to an application or the date of any other indication that he proposes to exercise a discretionary power.

Application for hearing

107. (1) Upon receiving such application the Registrar shall give the person applying fourteen days' notice of a time when he may be heard.

Notice of hearing

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

108. The decision of the Registrar in the exercise of any such discretionary power as aforesaid shall be notified to the person affected.

Notification of decision

109. Where under these Regulations 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 Registrar, or at

Dispensing with evidence

the Office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, 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.

Amendment
of documents

110. 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 Registrar may be excused without detriment to the interests of any person may be corrected, if the Registrar thinks fit, and on such terms as he may direct.

Certificates by
Registrar

111. The Registrar may give a certificate, other than a certificate under subsection (2) of section *twenty-four*, as to any entry, matter or thing which he is authorised or required by the Act or these Regulations to make or do, upon receipt of a request therefor on Form T.M. No. 32 from any person who, if the Registrar thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction. The Registrar 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.

Manner in
which and
person before
whom
affidavit or
solemn
declaration is
to be taken

112. The affidavits and solemn declarations required by the Act and Regulations, or used in any proceedings thereunder, shall be accepted if made and subscribed before any Judge, magistrate, notary public under his signature and seal of office, or by the Registrar of a Court of Justice or by a commissioner for oaths.

Searches

113. Any person may request the Registrar on Form T.M. No. 29 to cause a search to be made in respect of specified goods classified in any one class of the Third Schedule or the Fourth Schedule to ascertain whether any mark is on record at the date of the search which resembles a trade mark of which duplicate representations accompany the form. The Registrar shall cause such search to be made and the person making the request to be informed of the result thereof.

Days and
hours of
business

114. The Office shall be open to the public and the register shall be open to inspection on payment of the fee specified in the First Schedule every weekday, except Saturday, between the hours of nine and one, and two and half-past three; except on public holidays.

Procedure on
appeal from
decision of
Registrar

115. (1) Any person who wishes to appeal against a decision of the Registrar shall—

- (a) submit his case in writing to the Registrar who shall furnish that person with his written decision and his grounds therefor;

(b) within three months from the date of the decision of the Registrar—

- (i) leave at the Office a notice in Form T.M. No. 31;
- (ii) file with the registrar of the Tribunal a notice of appeal in accordance with the provisions of the Trade Marks (Tribunal) Rules.

(2) The provisions of sub-regulation (1) shall not apply in the case of an application within regulations 31 to 35.

116. A copy of every application made to the Tribunal under the Act shall be served on the Registrar.

Copy of application to Tribunal to be served on Registrar.

117. Where an order has been made by the High Court or the Tribunal in any case under the Act, the person in whose favour such order has been made, or such one of them, if more than one, as the Registrar may direct, shall forthwith leave at the Office a certified copy of such order, together with Form T.M. No. 48 if required. The register may, if necessary, thereupon be rectified or altered by the Registrar.

Order of High Court or Tribunal

118. Whenever an order is made by the High Court or the Tribunal under the Act the Registrar may, if he thinks fit that the order should be made public, require the applicant or the appellant, as the case may be, to publish it in the *Trade Marks Journal*.

Publication of order of High Court or Tribunal

(As amended by F.G.N. No. 57 of 1960)