

A.L. 233 ta' l-2003**ATT TA' L-2000 DWAR IT-TRADEMARKS
(ATT NRU. XVI TA' L-2000)****Regoli ta' l-2003 dwar it-Trademark Komunitarja**

BIS-SAHHA tas-setghat moghtija bl-artikolu 48 ta' l-Att ta' l-2000 dwar it-*Trademarks*, il-Ministru tal-Finanzi u Affarijiet Ekonomiċi ghamel dawn ir-Regoli li ġejjin:-

1. (1) It-titolu ta' dawn ir-Regoli hu Regoli ta' l-2003 dwar it-*Trademark Komunitarja*. Titolu u bidu fis-sehh.

(2) Dawn ir-Regoli ghandhom jibdedw isehhu fl-1 ta' Mejju, 2004.

2. F'dawn ir-Regoli:- Tifsir.

“l-Att” tfisser l-Att ta' l-2000 dwar it-*Trademarks*, u kliem u frażijiet użati ghandu jkollhom l-istess tifsir bhalma hu moghti lilhom fl-Att; Att XVI ta' l-2000.

“ir-Regolament Komunitarju dwar *Trademarks*” tfisser ir-Regolament tal-Kunsill (EC) No. 40/94 ta' l-20 ta' Dicembru, 1993 fuq it-*Trademark Komunitarja*, u *Trademark Komunitarja* ghandu jkollha l-istess tifsira hemm lilha moghtija.

3. Riferenzi ghal xi artikolu fin-noti marginali li hemm ma' dawn ir-Regoli ghandhom jitqiesu bhala riferenzi ghal xi artikolu, jew subartikolu jew paragrafu relattiv, ta' l-Att u jinkludu kull setgha ta' ghemil ta' Regoli bis-sahha wkoll ta' l-istess artikolu. Riferenzi ghall-Att.

4. Id-drittijiet li ghandhom jithallsu ghar-rigward ta' xi applikazzjoni, registrazzjoni jew kull haġa ohra taht dawn ir-Regoli ghandhom ikunu dawk preskritti fl-Iskeda tad-Drittijiet li tinsab ma' dawn ir-Regoli. Drittijiet.

Determinazzjoni *a posteriori* ta' l-invalidità u responsabbiltà għar-revoka.

5. (1) Meta l-proprjetarju ta' *Trademark* Komunitarja jghid li trademark reġistrata li tkun tnehhiet mir-reġistru taht l-artikolu 39 jew li tkun għet ċeduta taht l-artikolu 41 tkun saret qabel, tista' ssir applikazzjoni lir-reġistratur jew lill-qorti minn kull persuna għal dikjarazzjoni li, li kieku t-trademark reġistrata ma kienetx tkun hekk tnehhiet jew għet ċeduta, kienet xorta tista' tiġi revokata taht l-artikolu 42 jew tiġi dikjarata invalida taht l-artikolu 43.

(2) Meta trademark reġistrata tkun għet ċeduta għar-rigward ta' x'uhud biss mill-oġġetti jew servizzi li tkun reġistrata dwarhom, is-subregola (1) ta' din ir-regola għandha tkun tapplika dwar dawk l-oġġetti jew servizzi.

(3) Id-disposizzjonijiet ta' l-artikolu 42 jew 43, skond il-każ, l-artikoli 61, 63 u 64, bil-modifiki meħtieġa, japplikaw għar-rigward ta' applikazzjoni li ssir taht is-subregola (1) ta' din ir-regola.

Theddid bla ebda bażi ta' proċ edimenti għal ksur.

6. Id-disposizzjonijiet ta' l-artikolu 20 għandhom japplikaw dwar *Trademark* Komunitarja bħalma japplikaw għal *trademark* reġistrata.

Privileġġ għal komunikazzjonijiet ma' rappreżentanti professjonali.

7. Id-disposizzjonijiet ta' l-artikolu 70 (privileġġ għal komunikazzjonijiet bejn persuna u l-aġent tiegħu tat-*trademark* reġistrata) japplikaw għar-rigward ta' persuni fuq il-lista ta' rappreżentanti professjonali li tinżamm konformement ma' l-Artikolu 89 tar-Regolament ta' *Trademarks* Komunitarji ("rappreżentanti professjonali") u għal dan l-għan it-tifsira ta' "aġent ta' trademark" fl-artikolu 69 ta' l-Att dwar *Trademarks* tinkludi wkoll rappreżentanti professjonali.

Reati.

8. Id-disposizzjonijiet ta' l-artikoli 72 sa 86 dwar reati kriminali li jsiru għar-rigward ta' *trademarks* reġistrati lokalment għandhom japplikaw għar-rigward ta' *Trademark* Komunitarja u għall-finijiet ta' dawk id-disposizzjonijiet -

(a) riferenzi għal *trademark* reġistrata jinkludu *Trademark* Komunitarja;

(b) riferenzi għal oġġetti jew servizzi li dwarhom trademark tkun reġistrata jinkludu oġġetti jew servizzi li dwarhom *Trademark* Komunitarja tkun reġistrata.

Qrati li jittrattaw dwar it-tismija ta' *Trademark* Komunitarja.

9. Għall-finijiet ta' l-Artikolu 91 tar-Regolament ta' *Trademarks* Komunitarji, dawn il-qrati li ġejjin huma msemmija bħala qrati li jittrattaw dwar *Trademark* Komunitarja -

- (a) Prim'Awla tal-Qorti Ċivili;
- (b) Qorti ta' l-Appell.

10. (1) Id-disposizzjonijiet ta' dan ir-Regolament japplikaw Konverżjoni. meta l-applikant jew il-proprjetarju ta' *Trademark* Komunitarja jitlob il-konverżjoni ta' l-applikazzjoni tat-*Trademark* Komunitarja tiegħu jew ta' *Trademark* Komunitarja f'applikazzjoni għal reġistrazzjoni ta' *trademark* taht l-Att ("applikazzjoni ta' konverżjoni") konformement ma' l-Artikolu 108 tar-Regolament ta' *Trademarks* Komunitarji.

(2) Meta l-Kontrollur jiddeċidi li talba għal applikazzjoni ta' konverżjoni tkun ammissibbli konformement ma' l-Artikolu 108, din għandha tiġi ttrattata bħala applikazzjoni għar-reġistrazzjoni ta' *trademark* taht l-Att.

(3) Deċiżjoni tal-Kontrullur dwar xi applikazzjoni ta' konverżjoni għandha tiġi ttrattata bħala deċiżjoni tal-Kontrullur taht l-Att.

11. Hlief kif xort'ohra provdut, jew meta l-applikazzjoni tagħhom tkun inkonsistenti mad-disposizzjonijiet ta' dawn ir-Regoli, id-disposizzjonijiet tar-Regoli ta' l-2000 dwar Provvedimenti u Drittijiet Kif japplika A.L. 283 ta' l-2000. dwar *Trademarks*, għandhom jibqgħu japplikaw.

Skeda ta' Drittijiet

Prezentata u proċessar ta' applikazzjoni għal *Trademark* Komunitarja konformement ma' l-Artikolu 25 tar-Regolament ta' *Trademarks* Komunitarji

Regola 4

Meta, konformement ma' l-Artikolu 25 tar-Regolament ta' *Trademarks* Komunitarji, applikazzjoni għal *Trademark* Komunitarja tiġi pprezentata fl-Uffiċċju f'Malta li jkun responsabbli għar-reġistrazzjoni ta' *trademarks*, għandu jithallas dritt ta' ghoxrin lira (Lm20).

L.N. 233 of 2003

**TRADEMARKS ACT, 2000
(ACT NO. XVI OF 2000)**

Community Trademark Rules, 2003

IN exercise of the powers conferred by article 48 of the Trademarks Act 2000, the Minister of Finance and Economic Affairs has made the following Rules:—

Title and commencement.

1. (1) The title of these Rules is the Community Trademark Rules, 2003.

(2) These Rules shall come into force on the 1st May, 2004.

Interpretation.

2. In these Rules -

Act XVI of 2000.

“the Act” means the Trademarks Act, 2000, and the words and expressions used shall have the same meaning as is given to them in the Act;

“the Community Trademark Regulation” means Council Regulation (EC) No. 40/94 of 20th December, 1993 on the Community Trademark, and Community Trademark shall have the same meaning stipulated therein.

References to the Act.

3. References to any article in the marginal notes to these Rules shall be deemed as references to any article, or subarticle or paragraph thereof, of the Act and include any power to make Rules by virtue also of the same article.

Fees.

4. The fees to be paid in respect of any application, registration or any other matter under these Rules shall be those prescribed in the Schedule of Fees to these Rules.

Determination *a posteriori* of invalidity and liability to revocation.

5. (1) Where the proprietor of a Community Trademark claims the seniority of a registered trademark which has been removed from the register under article 39 or has been surrendered under article 41, application may be made to the registrar or to the court by any person for a declaration that, if the registered trademark had not been so removed or surrendered, it would have been liable to be revoked under article 42 or declared invalid under article 43.

(2) Where a registered trademark has been surrendered in respect of some only of the goods or services for which it is registered, sub-rule (1) above shall apply in relation to those goods or services.

(3) The provisions of articles 42 or 43, as the case may be, articles 61, 63 and 64, with necessary modifications, apply in relation to an application under sub-rule (1) above.

6. The provisions of article 20 shall apply in relation to a Community Trademark as in relation to a registered trademark. Groundless threats of infringement proceedings.

7. The provisions of article 70 (privilege for communications between a person and his registered trademark agent) apply in relation to persons on the list of professional representatives maintained in pursuance of article 89 of the Community Trademark Regulation (“professional representatives”) and for this purpose the definition of “trademark agent” in article 69 of the Trademark Act includes professional representatives. Privilege for communications with professional representatives.

8. The provisions of articles 72 to 86 regarding criminal offences committed in respect of locally registered marks shall apply in relation to a Community Trademark and for the purposes of those provisions- Offences.

(a) references to a registered trademark shall include a Community Trademark;

(b) references to goods or services in respect of which a trademark is registered shall include goods or services in respect of which a Community Trademark is registered.

9. For the purposes of Article 91 of the Community Trademark Regulation, the following courts are designated as Community Trademark courts - Designation of Community Trademark courts.

(a) First Hall of the Civil Court;

(b) The Court of Appeal.

10. (1) The provisions of this Regulation apply where the applicant for or the proprietor of a Community Trademark requests the conversion of his Community Trademark application or Community Trademark into an application for registration of a trademark under the Act (“conversion application”) pursuant to Article 108 of the Community Trademark Regulation. Conversion.

(2) Where the Comptroller decides that a request for a conversion application is admissible pursuant to Article 108, it shall be treated as an application for registration of a trademark under the Act.

(3) A decision of the Comptroller in relation to a conversion application shall be treated as a decision of the Comptroller under the Act.

Applicability of
L.N. 283 of 2000.

11. Except as otherwise provided, or where their application would be inconsistent with the provisions of these Rules, the provisions of the Trademarks (Provisions and Fees) Rules, 2000 shall continue to apply.

Schedule of Fees

Receipt and forwarding of Community Trademark application pursuant to Article 25 of the Community Trademark Regulation

Rule 4

Where, pursuant to Article 25 of the Community Trademark Regulation, an application for a Community Trademark is filed at the Office in Malta responsible for registering trademarks, there shall be paid a fee of twenty liri (Lm20).