
STATUTORY INSTRUMENTS

1994 No. 2550 (C.52)

TRADE MARKS

The Trade Marks Act 1994 (Commencement) Order 1994

Made - - - - 29th September 1994

The Secretary of State, in exercise of the powers conferred upon him by section 109 of the Trade Marks Act 1994⁽¹⁾, hereby makes the following Order:—

1. This Order may be cited as the Trade Marks Act 1994 (Commencement) Order 1994.

2. All the provisions of the Trade Marks Act 1994 (“the Act”) shall come into force on 31st October 1994; and, accordingly, for the purposes of subsection (2) of the said section 109, that date shall be the date of commencement in respect of the references to commencement of the Act in Schedules 3 and 4 to the Act (transitional provisions and consequential amendments).

3.—(1) The provisions of the Act specified in the Schedule to this Order shall come into force forthwith for the purpose only of enabling the making of subordinate legislation thereunder, by the authority shown in relation to those provisions, expressed to come into force on 31st October 1994.

(2) Section 66(1) (power of registrar to require use of forms and give directions as to their use) and section 80(1) and (3) (power of the registrar to give directions as to the hours of business and business days) of the Act shall come into force forthwith for the purpose of enabling the registrar to exercise his powers thereunder, the same being effective on 31st October 1994.

29th September 1994

Ian Taylor
Parliamentary Under-Secretary of State for Trade
and Technology,
Department of Trade and Industry

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SCHEDULE

Provision and Authority	Subject-matter
Rules by the Secretary of State under the following provisions, as read with (except in the case of items (u) and (cc)(i) and (iv) below) paragraph (a) or (b), or both, as appropriate, of subsection (1) of section 78(2)—	Prohibiting the registration of a trade mark which consists of arms to which a person is entitled by virtue of a grant of arms by the Crown
(a) section 4(4)	
(b) (b) section 13(2)	Providing for the publication and entry in the register of a disclaimer or limitation with respect to the registration of a trade mark
(c) (c) section 25(1), (5) and (6)	Prescribing the particulars of transactions affecting registered trade marks to be entered in the register; providing for amendments to, or removal of registered particulars relating to licences or to a security interest
(d) (d) section 34(1)	Prescribing the system of classification of trade marks
(e) (e) section 35(5)	Providing for the manner of claiming a right to priority on the basis of a Convention application
(f) (f) section 38(1) and (2)	Prescribing the manner of publication of an application for registration, the time within which, and the manner in which, notice of opposition to the registration must be given
(g) (g) section 39(3)	Providing for the publication of amendments of applications for registration
(h) (h) section 40(4)	Prescribing the manner of publication of the registration of a trade mark
(i) (i) section 41(1) and (3)	Providing as to division or merging of an application for registration and the registration of a series of trade marks
(j) (j) section 43(2), (3), (5) and (6)	Providing for informing the proprietor of the date of expiry of the registration; prescribing the period for the payment of the renewal fee; providing for the restoration of a trade mark to the register and the manner of publication of the renewal or restoration of the registration
(k) (k) section 44(3)	Providing for the publication of any alteration of a registered trade mark and for the making of objections thereto by persons affected

(2) Section 78(1)(a) and (b) empowers the Secretary of State to make rules for the purposes of any provision of the Act authorising the making of rules with respect to any matter and for prescribing anything authorised or required by any provision of the Act to be prescribed.

Provision and Authority		Subject-matter
(l)	(l) section 45(2)	Providing for the manner of surrender of a registered trade mark and for protecting interests of other persons having a right therein
(m)	(m) section 63(2) and (3)	Prescribing the particulars of registrable transactions to be entered in the register and the manner in which the register shall be kept; providing for public inspection of the register and the supply of copies of entries therein
(n)	(n) section 64(4)	Prescribing the manner in which a request may be made for a change in the name or address of the proprietor as recorded in the register
(o)	(o) section 65(1), (3), (4) and (5)	Providing for the adaptation of entries to new classification; prescribing the time within which a proposal for amendment may be filed and the manner in which such proposal shall be advertised and opposed
(p)	(p) section 66(2)	Prescribing the manner of publication of the forms required by the registrar and his directions as to their use
(q)	(q) section 67(1) and (2)	Prescribing restrictions with regard to information about applications and the manner of requesting information
(r)	(r) section 68(1) and (3)	Providing for the registrar to award costs and direct how and by what parties they are to be paid and for him to require a party to give security for costs
(s)	(s) section 69	Providing for the giving of evidence by affidavit or statutory declaration in proceedings before the registrar, conferring on him the powers of an official referee of the Supreme Court and applying the rules applicable to the attendance of witnesses
(t)	(t) section 76(1)	Providing for decisions of the registrar from which no appeal lies
(u)	(u) section 78	Providing for rules for the purposes of any provision of the Act authorising rules or for prescribing anything required to be prescribed by any provision of the Act, and generally for regulating practice and procedure and for other matters
(v)	(v) section 79	Prescribing fees in respect of applications and registration and other matters; providing for the payment of a single fee in respect of two or more matters and the circumstances in which a fee may be repaid or remitted

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Provision and Authority	Subject-matter
(w) (w) section 80(3)	Prescribing the manner of publication of the registrar's directions on hours of business and business days of the Office
(x) (x) section 81	Providing for the publication of a journal
(y) (y) section 82	Providing for the recognition of persons authorised to act as agents
(z) (z) section 88	Providing for the registrar to refuse to deal with certain agents
(aa) (aa) Schedule 1, paragraph 6(2)	Prescribing the period during which the applicant for a collective mark must file the regulations
(bb) (bb) Schedule 2, paragraph 7(2)	Prescribing the period during which the applicant for a certification mark must file the regulations
(cc) (cc) Schedule 3— (i) paragraph 10(2)	In relation to an application for registration pending on the commencement of the Act, the exercise of powers under section 78 of the Act
(ii) paragraph 11(2)	Prescribing the form of the notice claiming to have the registrability of the mark determined in accordance with the provisions of the Act
(iii) paragraph 12	Providing for the exercise by the registrar of his powers under section 65 of the Act (adaptation of entries to new classification)
(iv) paragraph 14(5)	Providing as to the manner of claiming a right to priority on the basis of a relevant overseas application under section 39A of the Trade Marks Act 1938
Regulations by the Commissioners of Customs and Excise under section 90	Prescribing the form in which notice is to be given under section 89 of the Act and requiring security or indemnity from a person giving such a notice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force all the provisions of the Trade Marks Act 1994 on 31st October 1994. For the purpose only of enabling subordinate legislation to be made under the provisions of the Act specified in the Schedule to the Order, to come into force on that date, this Order brings into force forthwith those provisions. It also brings into force forthwith sections 66(1) and 80(1) and (3) to

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enable the registrar to exercise his powers to require forms and give directions as to their use and to specify business hours and business days of the Patent Office, effective from 31st October 1994.