

SCHEDULES

SCHEDULE 4

CONSEQUENTIAL AMENDMENTS

Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939(c.107)

- 3 (1) The Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939 is amended as follows.
- (2) For section 3 (power of comptroller to suspend rights of enemy or enemy subject) substitute—

“3 Power of comptroller to suspend trade mark rights of enemy or enemy subject

- (1) Where on application made by a person proposing to supply goods or services of any description it is made to appear to the comptroller—
- (a) that it is difficult or impracticable to describe or refer to the goods or services without the use of a registered trade mark, and
 - (b) that the proprietor of the registered trade mark (whether alone or jointly with another) is an enemy or an enemy subject,
- the comptroller may make an order suspending the rights given by the registered trade mark.
- (2) An order under this section shall suspend those rights as regards the use of the trade mark—
- (a) by the applicant, and
 - (b) by any person authorised by the applicant to do, for the purposes of or in connection with the supply by the applicant of the goods or services, things which would otherwise infringe the registered trade mark,
- to such extent and for such period as the comptroller considers necessary to enable the applicant to render well-known and established some other means of describing or referring to the goods or services in question which does not involve the use of the trade mark.
- (3) Where an order has been made under this section, no action for passing off lies on the part of any person interested in the registered trade mark in respect of any use of it which by virtue of the order is not an infringement of the right conferred by it.
- (4) An order under this section may be varied or revoked by a subsequent order made by the comptroller.”.

- (3) In each of the following provisions—
- (a) section 4(1)(c) (effect of war on registration of trade marks),

Status: This is the original version (as it was originally enacted).

- (b) section 6(1) (power of comptroller to extend time limits),
 - (c) section 7(1)(a) (evidence as to nationality, &c.), and
 - (d) the definition of “the comptroller” in section 10(1) (interpretation),
- for “the Trade Marks Act 1938” substitute “the Trade Marks Act 1994”.