

EXPLANATORY MEMORANDUM TO
THE COMMUNITY TRADE MARK (DESIGNATION OF COMMUNITY
TRADE MARK COURTS) REGULATIONS 2005

2005 No.440

1. This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

2. **Description**

This Instrument increases the number of courts designated as Community Trade Mark Courts.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

This Instrument is being issued free of charge to those who purchased either the Trade Marks (International Registrations Designating the European Community, etc) Regulations 2004 (“the 2004 Regulations”) or the Community Trade Mark Regulations 1996 (“the 1996 Regulations”).

4. **Legislative Background**

4.1 This Instrument is being made under section 52 of the Trade Marks Act 1994.

5. **Extent**

5.1 This Instrument applies to all of the United Kingdom.

6. **European Convention on Human Rights**

Not applicable.

7. **Policy background**

7.1 This Instrument amends the 1996 Regulations and the 2004 Regulations. These amendments are needed as a result of a failure to include a provision in the 1996 Regulations expressly designating the courts of “second instance” which are to hear appeals from the designated courts of “first instance”, as required by Article 91(1) of Council Regulation (EC) No. 40/94 on the Community trade mark (“Regulation 40/94”). That oversight was repeated when the 1996 Regulations were amended by regulation 15 of the 2004 Regulations to extend the number of designated first instance courts.

7.2 This Instrument revokes regulation 15 of the 2004 Regulations before the date on which regulation 15 was due to come into force. This ensures that the

version of regulation 9 of the 1996 Regulations substituted by the 2004 Regulations will never have effect.

7.3 This Instrument also amends the 1996 Regulations by substituting a new version of regulation 9 designating the Patents County Court and seven other county courts as additional courts having jurisdiction in England and Wales over proceedings arising out of Regulation 40/94. It also, for the first time, designates the Court of Appeal in England and Wales, the Court of Session in Scotland and the Court of Appeal in Northern Ireland as courts of second instance for the purposes of Article 91(1).

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument, but increasing the number of designated first instance courts should assist small and medium size enterprises by providing improved access to justice.

9. Contact

Jeff Watson at the Patent Office (an executive agency of the Department of Trade and Industry) Tel No:(0)1633 813650 and e-mail: Jeff.Watson@patent.gsi.gov.uk can answer any queries regarding the instrument.