



Copyright, Designs and Patents Act 1988

1988 CHAPTER 48

PART V

PATENT AGENTS AND TRADE MARK AGENTS

Trade mark agents

282 The register of trade mark agents

- (1) The Secretary of State may make rules requiring the keeping of a register of persons who act as agent for others for the purpose of applying for or obtaining the registration of trade marks; and in this Part a “registered trade mark agent” means a person whose name is entered in the register kept under this section.
- (2) The rules may contain such provision as the Secretary of State thinks fit regulating the registration of persons, and may in particular—
 - (a) require the payment of such fees as may be prescribed, and
 - (b) authorise in prescribed cases the erasure from the register of the name of any person registered in it, or the suspension of a person’s registration.
- (3) The rules may delegate the keeping of the register to another person, and may confer on that person—
 - (a) power to make regulations—
 - (i) with respect to the payment of fees, in the cases and subject to the limits prescribed by rules, and
 - (ii) with respect to any other matter which could be regulated by rules, and
 - (b) such other functions, including disciplinary functions, as may be prescribed by rules.
- (4) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

283 Unregistered persons not to be described as registered trade mark agents

- (1) An individual who is not a registered trade mark agent shall not—
 - (a) carry on a business (otherwise than in partnership) under any name or other description which contains the words “registered trade mark agent”; or
 - (b) in the course of a business otherwise describe or hold himself out, or permit himself to be described or held out, as a registered trade mark agent.
- (2) A partnership shall not—
 - (a) carry on a business under any name or other description which contains the words “registered trade mark agent”; or
 - (b) in the course of a business otherwise describe or hold itself out, or permit itself to be described or held out, as a firm of registered trade mark agents,unless all the partners are registered trade mark agents or the partnership satisfies such conditions as may be prescribed for the purposes of this section.
- (3) A body corporate shall not—
 - (a) carry on a business (otherwise than in partnership) under any name or other description which contains the words “registered trade mark agent”; or
 - (b) in the course of a business otherwise describe or hold itself out, or permit itself to be described or held out, as a registered trade mark agent,unless all the directors of the body corporate are registered trade mark agents or the body satisfies such conditions as may be prescribed for the purposes of this section.
- (4) The Secretary of State may make rules prescribing the conditions to be satisfied for the purposes of this section in relation to a partnership where not all the partners are registered trade mark agents or a body corporate where not all the directors are registered trade mark agents; and the rules may, in particular, prescribe conditions as to the number or proportion of partners or directors who must be registered trade mark agents.
- (5) Rules under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale; and proceedings for such an offence may be begun at any time within a year from the date of the offence.

284 Privilege for communications with registered trade mark agents

- (1) This section applies to communications as to any matter relating to the protection of any design, trade mark or service mark, or as to any matter involving passing off.
- (2) Any such communication—
 - (a) between a person and his trade mark agent, or
 - (b) for the purpose of obtaining, or in response to a request for, information which a person is seeking for the purpose of instructing his trade mark agent,is privileged from disclosure in legal proceedings in England, Wales or Northern Ireland in the same way as a communication between a person and his solicitor or, as the case may be, a communication for the purpose of obtaining, or in response to a request for, information which a person seeks for the purpose of instructing his solicitor.

- (3) In subsection (1) “trade mark agent” means—
- (a) a registered trade mark agent, or
 - (b) a partnership entitled to describe itself as a firm of registered trade mark agents, or
 - (c) a body corporate entitled to describe itself as a registered trade mark agent.
- (4) It is hereby declared that in Scotland the rules of law which confer privilege from disclosure in legal proceedings in respect of communications extend to such communications as are mentioned in subsection (1).