

except by leave of the Court. Where any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of costs on giving notice as prescribed.

(7) The Registrar or the Court, as the case may be, may at any time, whether before or after acceptance, correct any error in or in connexion with the application, or may permit the applicant to amend his application upon such terms as the Registrar or the Court may think fit.

Advertisement of application.

14. When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the Registrar shall require the applicant to advertise it, as accepted, in the prescribed manner. The advertisement shall set forth all conditions and limitations subject to which the application has been accepted:

Provided that the Registrar may require an application for registration of a trade mark to be advertised by the applicant before acceptance—

- (a) if it be made under paragraph (e) of subsection (1) of section 9; or
- (b) in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do,

and where an application has been so advertised the Registrar may, if he thinks fit, require the applicant to advertise it again when it has been accepted but shall not be bound so to do.

Opposition to registration.

15. (1) Any person may, within the prescribed time from the date of the advertisement of an application, give notice to the Registrar of opposition to the registration.

(2) The notice shall be given in writing in the prescribed manner, and shall include a statement of the grounds of opposition.

(3) The Registrar shall send a copy of the notice to the applicant, and, within the prescribed time after the receipt thereof, the applicant shall send to the Registrar, in the prescribed manner,

a counter-statement of the grounds on which he relies for his application, and if he does not do so he shall be deemed to have abandoned his application.

(4) If the applicant sends such counter-statement, the Registrar shall furnish a copy thereof to the person giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(5) The decision of the Registrar shall be subject to appeal to the Court.

(6) An appeal under this section shall be made in the prescribed manner, and on the appeal the Court shall, if required, hear the parties and the Registrar, and shall make an order determining whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(7) On the hearing of an appeal under this section any party may, either in the manner prescribed or by special leave of the Court, bring forward further material for the consideration of the Court.

(8) On an appeal under this section no further grounds of objection to the registration of a trade mark shall be allowed to be taken by the opponent or the Registrar other than those stated by the opponent as hereinbefore provided, except by leave of the Court. Where any further grounds of objection are taken the applicant shall be entitled to withdraw his application without payment of the costs of the opponent on giving notice as prescribed.

(9) On an appeal under this section the Court may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting the identity thereof, but in any such case the trade mark as so modified shall be advertised in the prescribed manner before being registered.

(10) If a person giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of the notice, or an appellant, neither resides nor carries on business in the

Colony, the tribunal may require him to give security for costs of the proceedings before it relative to the opposition or to the appeal, as the case may be, and in default of such security being duly given may treat the opposition or application, or the appeal, as the case may be, as abandoned.

Dis-
claimers.

16. If a trade mark contains parts not separately registered by the proprietor as trade marks, or if it contains matter common to the trade, or otherwise of a non-distinctive character, the Registrar or the Court, in deciding whether such trade mark shall be entered or shall remain upon the register, may require, as a condition of its being upon the register, that the proprietor shall disclaim any right to the exclusive use of any part or parts of such trade mark, or of all or any portion of such matter, to the exclusive use of which the tribunal holds him not to be entitled, or that he shall make such other disclaimer as the tribunal may consider necessary for the purpose of defining his rights under such registration :

Provided always that no disclaimer upon the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

Registra-
tion, and
failure
to complete.

17. (1) When an application for registration of a trade mark in Part A or in Part B of the register has been accepted and has not been opposed and the time for notice of opposition has expired, or having been opposed the opposition has been decided in favour of the applicant, the Registrar shall, unless the application has been accepted in error or unless the Governor otherwise directs, register the trade mark in Part A or Part B, as the case may be, and the trade mark when registered shall be registered as of the date of the application for registration, and such date shall be deemed for the purposes of this Ordinance to be the date of registration.

(2) The registration of a trade mark shall be for a period of seven years, but may be renewed according to the provisions of section 45 :

Provided that, in relation to a registration as of a date before the commencement of this Ordinance, this subsection shall have effect with the substitution of a period of fourteen years for the said period of seven years.

(3) On the registration of a trade mark the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof under the hand and seal of the Registrar.

(4) When the registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice of the non-completion to the applicant in writing in the prescribed manner, treat the application as abandoned unless it is completed within the time specified in that behalf in the notice.

18. (1) An application for the registration of a trade mark in respect of any goods shall not be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark—

Applica-
tion for
registration
of mark
not to be
used by
applicant
but to be
assigned to
corporation
to be
constituted
or to be
used by
registered
user.

- (a) if the Registrar is satisfied that a body corporate is about to be constituted, and that the applicant intends to assign the trade mark to the corporation with a view to the use thereof in relation to those goods by the corporation ; or
- (b) if the application is accompanied by an application for the registration of a person as a registered user of the trade mark, and the Registrar is satisfied that the proprietor intends it to be used by that person in relation to those goods and the Registrar is also satisfied that that person will be registered as a registered user thereof immediately after the registration of the trade mark.

(2) The Registrar may, as a condition of the exercise of the power conferred by subsection (1) in favour of the applicant who relies on intention to assign to a corporation as aforesaid, require him to give security for the costs of any proceedings relative to any opposition, and in default of such security being duly given may treat the application as abandoned.

(3) Where a trade mark is registered in respect of any goods under the power conferred by subsection (1) in the name of an applicant who relies on intention to assign to a corporation as aforesaid, then, unless within such period as may be prescribed, or within such further period not exceeding six months as the Registrar may on application being made to him in the prescribed manner allow, the corporation has been registered as the proprietor

of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

Jointly owned trade marks.

19. Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except—

- (a) on behalf of both or all of them, or
- (b) in relation to an article with which both or all of them are connected in the course of trade,

those persons may be registered as joint proprietors of the trade mark, and this Ordinance shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person.

Subject as aforesaid, nothing in this Ordinance shall authorize the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

Identical Trade Marks.

Prohibition of registration of trade mark identical with or resembling a registered mark.

20. Except as provided by section 22 no trade mark shall be registered in respect of any goods or description of goods that is identical with a trade mark belonging to a different proprietor and already on the register in respect of the same goods or description of goods, or that so nearly resembles such a trade mark as to be likely to deceive or cause confusion.

Applications for registration of identical or resembling trade marks.

21. Where separate applications are made by different persons to be registered as proprietors respectively of trade marks that are identical or nearly resemble each other, in respect of the same goods or description of goods, the Registrar may refuse to register any of them until their rights have been determined by the Court, or have been settled by agreement in a manner approved by him or, on an appeal, by the Court.

Concurrent user.

22. In case of honest concurrent user or of other special circumstances, which in the opinion of the Court or of the Registrar make it proper to do so, the Court or the Registrar may

permit the registration of trade marks that are identical or nearly resemble each other in respect of the same goods or description of goods by more than one proprietor subject to such conditions and limitations, if any, as the Court or the Registrar, as the case may be, may think it right to impose.

23. The Registrar may refuse to register any trade mark if it is proved to his satisfaction by the person opposing the application for registration that such mark is identical with, or so nearly resembles as to be calculated to deceive or cause confusion, a trade mark which is already registered in respect of the same goods or description of goods in a country or place from which such goods originate :

Protection of marks registered in country of origin.

Provided that no application to register shall be refused under this section—

- (a) if the applicant proves that he or his predecessors in business have in Hong Kong, in relation to such goods, continuously used the trade mark for the registration of which he has made application from a date anterior to the date of the registration of the other mark in such country or place of origin, or
- (b) if the opponent does not give an undertaking to the satisfaction of the Registrar that he will, within three months from the giving of the notice of opposition, apply for registration in Hong Kong of the trade mark so registered in the country or place of origin, and will take all necessary steps to complete such registration.

Associated Trade Marks.

24. (1) Where a trade mark which is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark which is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may at any time require that the trade marks shall be entered on the register as associated trade marks.

Associated trade marks.

(2) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association

as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by another person in relation to any of the goods in respect of which it is registered, and he may amend the register accordingly.

(3) Any decision of the Registrar under the provisions of subsections (1) and (2) shall be subject to appeal to the Court.

Combined trade marks.

25. (1) If the proprietor of a trade mark claims to be entitled to the exclusive use of any portion of such trade mark separately, he may apply to register the whole and any such part as separate trade marks. Each such separate trade mark must satisfy all the conditions of an independent trade mark and shall, subject to the provisions of subsection (2) hereof and subsection (2) of section 38, have all the incidents of an independent trade mark.

(2) When a trade mark and any part or parts thereof are thus registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

Series of trade marks.

26. (1) When a person claiming to be the proprietor of several trade marks for the same goods or description of goods which, while resembling each other in the material particulars thereof, differ in respect of—

- (a) statements of the goods in relation to which they are respectively used or proposed to be used; or
- (b) statements of number, price, quality or names of places; or
- (c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or
- (d) colour,

seeks to register such trade marks, they may be registered as a series in one registration.

(2) All trade marks so registered shall be deemed to be, and shall be registered as, associated trade marks.

Effect of registration and the action for infringement.

27. (1) Subject to the provisions of subsections (2) to (4) hereof, and of sections 33 and 34, the registration (whether before or after the commencement of this Ordinance) of a person in Part A of the register as proprietor of a trade mark (other than a certification trade mark) in respect of any goods shall, if valid, give or be deemed to have given to that person the exclusive right to the use of the trade mark in relation to those goods and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

Right given by registration in Part A, and infringement thereof.

- (a) as being use as a trade mark; or
- (b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or as registered user to use the trade mark or to goods with which such a person as aforesaid is connected in the course of trade.

(2) The right to the use of a trade mark given by registration as aforesaid shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations, the registration does not extend.

(3) The right to the use of a trade mark given by registration as aforesaid shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

- (a) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not sub-

sequently removed or obliterated it, or has at any time expressly or impliedly consented to the use of the trade mark; or

(b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connexion in the course of trade between any person and the goods.

(4) The use of a registered trade mark, being one of two or more registered marks which are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration as aforesaid, shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks. Each registered proprietor of such a trade mark shall otherwise have the same rights as if he were the sole registered proprietor thereof.

28. (1) Except as provided by subsection (2), the registration of a person in Part B of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the register, and the provisions of section 27 shall have effect in like manner in relation to a trade mark registered in Part B of the register as they have in relation to a trade mark registered in Part A of the register.

(2) In any action for infringement of the right to the use of a trade mark given by registration as aforesaid in Part B of the register, otherwise than by an act that is deemed to be an infringement by virtue of section 32, no injunction or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the Court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connexion in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the trade mark.

Right given by registration in Part B, and infringement thereof.

29. In all legal proceedings relating to a registered trade mark (including applications under section 48) the fact that a person is registered as proprietor of such trade mark shall be *prima facie* evidence of the validity of the original registration of such trade mark and of all subsequent assignments and transmissions thereof.

Registration to be *prima facie* evidence of validity.

30. (1) In all legal proceedings relating to a trade mark registered in Part A of the register (including applications under section 48) the original registration of the trade mark in Part A of the register shall, after the expiration of seven years from the date of that registration, be taken to be valid in all respects, unless—

Registration in Part A to be conclusive as to validity after seven years.

(a) that registration was obtained by fraud, or

(b) the trade mark offends against the provisions of subsection (1) of section 12.

(2) Nothing in subsection (1) of section 28 shall be construed as making applicable to a trade mark registered in Part B of the register the provisions of subsection (1) relating to a trade mark registered in Part A of the register.

31. Subject to the provisions of this Ordinance, equities in respect of a trade mark may be enforced in like manner as in respect of any other personal property.

Equities in respect of trade marks.

32. (1) Where, by a contract in writing made with the proprietor or a registered user of a registered trade mark, a purchaser or owner of goods enters into an obligation to the effect that he will not do, in relation to the goods, an act to which this section applies, any person who, being the owner for the time being of the goods and having notice of the obligation, does that act, or authorizes it to be done, in relation to the goods in the course of trade or with a view to any dealing therewith in the course of trade shall be deemed thereby to infringe the right to the use of the trade mark given by the registration thereof, unless that person became the owner of the goods by purchase for money or money's worth in good faith before receiving notice of the obligation or by virtue of a title derived through another who so became the owner thereof.

Infringement by breach of certain restrictions.

- (2) The acts to which this section applies are—
- (a) the application of the trade mark upon the goods after they have suffered alteration in any manner specified in the contract as respects their state or condition, get-up or packing;
 - (b) in a case in which the trade mark is upon the goods, the alteration, part removal or part obliteration thereof;
 - (c) in a case in which the trade mark is upon the goods, and there is also thereon other matter, being matter indicating a connexion in the course of trade between the proprietor or registered user and the goods, the removal or obliteration, whether wholly or partially, of the trade mark unless that other matter is wholly removed or obliterated;
 - (d) in a case in which the trade mark is upon the goods, the application of any other trade mark to the goods;
 - (e) in a case in which the trade mark is upon the goods, the addition to the goods of any other matter in writing that is likely to injure the reputation of the trade mark.

(3) In this section references in relation to any goods to the proprietor, to a registered user, and to the registration, of a trade mark, shall be construed, respectively, as references to the proprietor in whose name the trade mark is registered, to a registered user who is registered, and to the registration of the trade mark, in respect of those goods, and the expression "upon" includes in relation to any goods a reference to physical relation thereto.

Saving for vested rights.

33. Nothing in this Ordinance shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it in relation to goods in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date anterior—

- (a) to the use of the first mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or

- (b) to the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his;

whichever is the earlier, or to object (on such use being proved) to that person being put on the register for that identical or nearly resembling trade mark in respect of those goods under section 22.

34. No registration of a trade mark shall interfere with—
- (a) any *bona fide* use by a person of his own name or of the name of his place of business, or of the name, or of the name of the place of business, of any of his predecessors in business; or
 - (b) the use by any person of any *bona fide* description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in paragraph (b) of subsection (1) of section 27 or in paragraph (b) of subsection (1) of section 67.

Saving for use of name, address or description of goods.

35. No person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark.

No action for infringement of unregistered trade mark

36. Nothing in this Ordinance contained shall be deemed to affect rights of action against any person for passing off goods as those of another person or the remedies in respect thereof.

"Passing off" action.

Use and non-use of Trade Marks.

37. (1) Subject to the provision of subsection (1) of section 55 and subsection (1) of section 57, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application by any person aggrieved to the Court, or, at the option of the applicant and subject to the provisions of section 80, to the Registrar, on the ground either—

Removal from register and imposition of limitations on ground of non-use.

- (a) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him

or, if it was registered under subsection (1) of section 18, by the corporation or registered user concerned, and that there has in fact been no *bona fide* use of the trade mark in relation to those goods by any proprietor thereof for the time being up to the date one month before the date of the application; or

- (b) that up to the date one month before the date of the application a continuous period of five years or longer elapsed during which the trade mark was a registered trade mark and during which there was no *bona fide* use thereof in relation to those goods by any proprietor thereof for the time being :

Provided that (except where the applicant has been permitted under section 22 to register an identical or nearly resembling trade mark in respect of the goods in question or where the tribunal is of opinion that he might properly be permitted so to register such a trade mark) the tribunal may refuse an application made under paragraph (a) or (b) in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where in relation to any goods in respect of which a mark is registered—

- (a) the matters referred to in paragraph (b) of subsection (1) are shown so far as non-use of the trade mark in relation to goods to be sold, or otherwise traded in, in the Colony (otherwise than for export from the Colony), or in relation to goods to be exported to a particular market outside the Colony; and
- (b) a person has been permitted under section 22 to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be sold, or otherwise traded in, in the Colony (otherwise than for export from the Colony), or in relation to goods to be exported to that market, or the tribunal is of opinion that he might properly be permitted so to register such a trade mark;

on application by that person to the Court or, at the option of the applicant and subject to the provisions of section 80, to the Registrar, the tribunal may impose on the registration of the first-mentioned trade mark such limitations as the tribunal thinks proper for securing that that registration shall cease to extend to such use as last aforesaid.

(3) An applicant shall not be entitled to rely for the purposes of paragraph (b) of subsection (1) or for the purposes of subsection (2) on any non-use of a trade mark which is shown to have been due to special circumstances in the trade and not to any intention not to use or to abandon the trade mark in relation to the goods to which the application relates.

38. (1) Where under the provisions of this Ordinance use of a registered trade mark is required to be proved for any purpose, the tribunal may, if and so far as the tribunal thinks right, accept use of an associated registered trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

Use of one of associated trade marks equivalent to use of another.

(2) The use of the whole of a registered trade mark shall for the purposes of this Ordinance be deemed to be also use of any registered trade mark, being a part thereof, registered in the name of the same proprietor by virtue of subsection (1) of section 25.

39. (1) The application in the Colony of a trade mark to goods to be exported from the Colony, and any other act done in the Colony in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in within the Colony, would constitute use of a trade mark therein, shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Ordinance or at common law.

Use of trade mark for export trade constitutes use of the trade mark.

(2) Subsection (1) shall be deemed to have had effect in relation to an act done before, as it has effect in relation to an act done after the commencement of this Ordinance.

Use of trade mark after change in form of trade connexion.

40. The use of a registered trade mark in relation to goods between which and the person using it any form of connexion in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the trade mark has been, or is, used in relation to goods between which and that person or a predecessor in title of his a different form of connexion in the course of trade subsisted or subsists.

Assignment and transmission.

Powers of, and restrictions on, assignment and transmission of trade marks.

41. (1) Notwithstanding any rule of law or equity to the contrary, a registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible either in connexion with the goodwill of a business or not.

(2) A registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible in respect either of all the goods in respect of which it is registered, or was registered, as the case may be, or of some (but not all) of those goods.

(3) The provisions of subsections (1) and (2) shall have effect in the case of an unregistered trade mark used in relation to any goods as they have effect in the case of a registered trade mark registered in respect of any goods, if at the time of the assignment or transmission of the unregistered trade mark it is or was used in the same business as a registered trade mark, and if it is or was assigned or transmitted at the same time and to the same person as that registered trade mark and in respect of goods all of which are goods in relation to which the unregistered trade mark is or was used in that business and in respect of which that registered trade mark is or was assigned or transmitted.

(4) Notwithstanding anything in subsections (1), (2) and (3), a trade mark shall not be, or be deemed to have been, assignable or transmissible in a case in which as a result of an assignment or transmission there would in the circumstances subsist, or have subsisted, whether under the common law or by registration, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade marks nearly resembling each other or of identical trade marks, if, having regard to the similarity of the goods and of the trade

marks, the use of the trade marks in exercise of those rights would be, or have been, likely to deceive or cause confusion :

Provided that, where a trade mark is, or has been, assigned or transmitted in such a case as aforesaid, the assignment or transmission shall not be deemed to be, or to have been, invalid under this subsection if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, or were, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold, or otherwise traded in, within the Colony (otherwise than for export therefrom), or in relation to goods to be exported to the same market outside the Colony.

(5) The proprietor of a registered trade mark who proposes to assign it in respect of any goods in respect of which it is registered may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances, and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment of the first-mentioned trade mark would or would not be invalid under subsection (4), and a certificate so issued shall, subject to the provisions of this section as to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under subsection (4) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a certificate in favour of validity, only if application for the registration under section 43 of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

(6) Where an assignment in respect of any goods of a trade mark that is at the time of the assignment used in a business in those goods is made on or after the commencement of this Ordinance otherwise than in connexion with the goodwill of that business, the assignment shall not take effect until the following requirements have been satisfied, that is to say, the assignee must, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, as the Registrar may allow, apply to him for directions with respect to the advertisement of the assignment, and must advertise it in such form and manner and within such period as the Registrar may direct.

(7) Any decision of the Registrar under this section shall be subject to appeal to the Court.

Power of registered proprietor to assign, and give receipts.

42. Subject to the provisions of this Ordinance, the person for the time being entered in the register as proprietor of a trade mark shall, subject to any rights appearing from the register to be vested in any other person, have power to assign the trade mark, and to give effectual receipts for any consideration for an assignment.

Registration of assignments and transmissions.

43. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall make application to the Registrar to register his title, and the Registrar shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register.

(2) Any decision of the Registrar under this section shall be subject to appeal to the Court.

(3) Except for the purposes of an appeal under this section or of an application under section 48, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of subsection (1) shall not be admitted in evidence in any Court in proof of the title to a trade mark unless the Court otherwise directs.

Assignments and transmissions of associated trade marks.

44. Trade marks that are registered as, or that are deemed by virtue of this Ordinance to be, associated trade marks shall be assignable and transmissible only as a whole and not separately, but they shall for all other purposes be deemed to have been registered as separate trade marks.

Renewal of registration.

Renewal of registration.

45. The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of such trade mark for a period of fourteen years from the date of expiration of the original registration as stated in subsection (2) of section 17

or of the last renewal of registration, as the case may be, which date is hereinafter referred to as "the expiration of the last registration".

46. At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date at which the existing registration will expire and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove such trade mark from the register, subject to such conditions, if any, as to its restoration to the register as may be prescribed.

Procedure on expiry of period of registration.

47. Where a trade mark has been removed from the register for non-payment of the fee for renewal, it shall, nevertheless, for the purpose of any application for registration of a trade mark during one year next after the date of such removal, be deemed to be a trade mark that is already on the register:

Status of unrenewed trade mark.

Provided that the foregoing provisions of this section shall not have effect when the Registrar is satisfied either—

- (a) that there has been no *bona fide* trade use of the trade mark that has been removed during the two years immediately preceding its removal; or
- (b) that no deception or confusion would be likely to arise from the use of the trade mark that is the subject of the application for registration by reason of any previous use of the trade mark that has been removed.

Rectification and correction of Register.

48. (1) Subject to the provisions of this Ordinance—

- (a) any person aggrieved by the non-insertion in or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the Court or, at the option of the applicant and subject to the provisions of section 80, to the Registrar, and the tribunal may make such order for making, expunging or varying the entry as the tribunal may think fit;

General power to rectify entries in register.

- (b) the tribunal may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connexion with the rectification of the register;
- (c) in case of fraud in the registration, assignment or transmission of a registered trade mark, the Registrar may himself apply to the Court under the provisions of this section;
- (d) any order of the Court rectifying the register shall direct that notice of the rectification shall be served in the prescribed manner on the Registrar, and the Registrar shall on receipt of the notice rectify the register accordingly.

(2) The power to rectify the register conferred by this section shall include power to remove a registration in Part A of the register to Part B.

Power to expunge or vary registration for breach of condition.

49. On application by any person aggrieved to the Court, or, at the option of the applicant and subject to the provisions of section 80, to the Registrar, or on application by the Registrar to the Court, the tribunal may make such order as the tribunal may think fit for expunging or varying the registration of a trade mark on the ground of any contravention of, or failure to observe, a condition entered on the register in relation thereto.

Correction of register.

50. (1) The Registrar may, on request made in the prescribed manner by the registered proprietor—

- (a) correct any error in the name, address or description of the registered proprietor of a trade mark; or
- (b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark; or
- (c) cancel the entry of a trade mark on the register; or
- (d) strike out any goods or classes of goods from those in respect of which a trade mark is registered; or
- (e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of such trade mark.

(2) The Registrar may, on request made in the prescribed manner by a registered user of a trade mark, correct any error, or enter any change, in the name, address or description of the registered user.

(3) Any decision of the Registrar under this section shall be subject to appeal to the Court.

51. (1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse such leave or may grant it on such terms and subject to such limitations as he may think fit.

Alteration of registered trade mark.

(2) The Registrar may cause an application under this section to be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) Any decision of the Registrar under this section shall be subject to appeal to the Court.

(4) Where leave as aforesaid is granted, the trade mark as altered shall be advertised in the prescribed manner, unless it has already been advertised, in the form to which it has been altered, in an advertisement under subsection (2).

52. (1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use, after the date of the registration, of a word or words which the trade mark contains, or of which it consists, as the name or description of an article or substance:

Words used as name or description of an article or substance.

Provided that, if it is proved either—

- (a) that there is a well-known and established use of the word or words as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark or (in the case of a certification trade mark) goods certified by the proprietor; or

- (b) that the article or substance was formerly manufactured under a patent, that a period of two years or more after the cesser of the patent has elapsed, and that the word or words is or are the only practicable name or description of the article or substance;

the provisions of subsection (2) shall have effect.

(2) Where the facts mentioned in paragraph (a) or (b) of the proviso to subsection (1) are proved with respect to any word or words, then—

- (a) if the trade mark consists solely of that word or those words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed for the purposes of section 48 to be an entry wrongly remaining on the register;
- (b) if the trade mark contains that word or those words and other matter, the Court or the Registrar, in deciding whether the trade mark shall remain on the register, so far as regards registration in respect of the article or substance in question and of any goods of the same description, may, in case of a decision in favour of its remaining on the register, require as a condition thereof that the proprietor shall disclaim any right to the exclusive use in relation to that article or substance and any goods of the same description of that word or those words, so, however, that no disclaimer upon the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made; and
- (c) for the purposes of any other legal proceedings relating to the trade mark—
 - (i) if the mark consists solely of that word or those words, all rights of the proprietor, whether under the common law or by registration, to the exclusive use of the trade mark in relation to the article or substance in question or to any goods of the same description, or
 - (ii) if the trade mark contains that word or those words and other matter, all such rights of the proprietor to the exclusive use of that word or those words in such relation as aforesaid,

shall be deemed to have ceased on the date at which the use mentioned in paragraph (a) of the proviso to subsection (1) first became well-known and established, or at the expiration of two years mentioned in paragraph (b) of that proviso.

53. The Court may, on the application in writing made within seven years from the registration of a trade mark in Hong Kong by any person aggrieved by such registration, remove such trade mark from the register if it is proved to the satisfaction of the Court that such trade mark is identical with, or so nearly resembles as to be calculated to deceive or cause confusion, a trade mark which was, prior to the registration in Hong Kong of the first-mentioned trade mark, registered (in respect of goods of the same description as those in respect of which the first-mentioned trade mark is registered in Hong Kong) in a country or place from which such goods originate:

Removal of trade mark from register on proof of prior registration in country of origin.

Provided that no trade mark shall be removed from the register under this section in the following cases—

- (a) if the proprietor of the other trade mark consented to the registration in Hong Kong of the first-mentioned trade mark; or
- (b) if the proprietor of the trade mark registered in Hong Kong proves that he or his predecessors in business have continuously used such trade mark in Hong Kong in connexion with such goods as aforesaid from a date anterior to the date of the registration of the other trade mark in the country or place of origin; or
- (c) unless the applicant proves either that within the five years immediately preceding the making of the application under this section there has been *bona fide* user in connexion with such goods as aforesaid in Hong Kong of the trade mark registered in the country or place of origin or that the special circumstances of the trade account for the non-user of such trade mark in Hong Kong within the same period, or that the trade mark so registered in the country or place of origin was first registered there within the like period of five years, and in either event gives an undertaking to the satisfaction of the Registrar that he will within three months from the making of the application under this section apply for

registration in Hong Kong of the trade mark so registered in the country or place of origin, and will take all necessary steps to complete the registration.

Adaptation of entries in register to amended or substituted classification of goods.

54. (1) The Governor in Council may from time to time make such rules, prescribe such forms and generally do such things as he thinks expedient, for empowering the Registrar to amend the register, whether by making or expunging or varying entries therein, so far as may be requisite for the purpose of adapting the designation therein of the goods or classes of goods in respect of which trade marks are registered to any amended or substituted classification that may be prescribed.

(2) The Registrar shall not, in exercise of any power conferred on him for the purpose aforesaid, make any amendment of the register that would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made, or of antedating the registration of a trade mark in respect of any goods:

Provided that this subsection shall not have effect in relation to goods as to which the Registrar is satisfied that compliance with this subsection in relation thereto would involve undue complexity and that the addition or antedating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

(3) A proposal for the amendment of the register for the purpose aforesaid shall be notified to the registered proprietor of the trade mark affected, shall be subject to appeal by the registered proprietor to the Court, shall be advertised with any modifications, and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of subsection (2). The decision of the Registrar on any such opposition shall be subject to appeal to the Court.

Defensive Trade Marks.

55. (1) (a) Where a trade mark consisting of an invented word or invented words, or a device or devices, or a combination of them, has become so exceptionally well known as respects any goods in respect of which it is registered and in relation to which it has been used that the use thereof in relation to other goods would be likely

Defensive registration of trade marks.

to detract from its distinctive character in respect of the first-mentioned goods, then, notwithstanding that such use would not be likely to be taken as indicating a connexion in the course of trade between those other goods and a person entitled to use the trade mark in relation to the first-mentioned goods and that the proprietor registered in respect of the first-mentioned goods does not use or propose to use the trade mark in relation to those other goods, and notwithstanding anything in section 37, the trade mark may, on the application in the prescribed manner of the proprietor registered in respect of the first-mentioned goods, be registered in his name in respect of those other goods as a defensive trade mark and, while so registered, shall not be liable to be taken off the register in respect of those other goods under section 37.

(b) In determining whether a trade mark is exceptionally well known and whether its use in relation to other goods would be likely to detract from its distinctive character in respect of the goods for which it is registered, the tribunal shall have regard to all related circumstances including the length of time the trade mark has been in use, the extent to which it has become well known in relation to the goods in respect of which it is registered, the nature of those goods, and whether the notoriety of the mark is limited because of its use on goods that are not of wide distribution.

(2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.

(3) Except as otherwise expressly provided in this section and in sections 56 and 57, the provisions of this Ordinance shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases.

Defensive trade marks to be registered as associated trade marks.

56. A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be, and shall be registered as, associated trade marks.

Removal of defensive trade marks from the register.

57. (1) On application by any person aggrieved to the Court, or, at the option of the applicant and subject to the provisions of section 80, to the Registrar, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of subsection (1) of section 55 are no longer satisfied in respect of any goods in respect of which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark, or may be cancelled as respects any goods in respect of which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would detract from its distinctive character in respect of the goods first-mentioned in subsection (1) of section 55.

(2) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

Registered Users.

Registration as a registered user. Meaning of "permitted use".

58. (1) (a) Subject to the provisions of this section and sections 59 to 63, a person other than the proprietor of a trade mark may be registered as a registered user thereof in respect of all or any of the goods in respect of which it is registered (otherwise than as a defensive trade mark) and either with or without conditions or restrictions.

(b) The use of a trade mark by a registered user thereof in relation to goods with which he is connected in the course of trade and in respect of which for the time being the trade mark remains registered and he is registered as a registered user, being use such as to comply with any conditions or restrictions to which his registration is subject, is in this Ordinance referred to as the "permitted use" thereof.

(2) (a) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof, and shall be deemed

not to be use by a person other than the proprietor, for the purposes of section 37 and for any other purpose for which such use is material under this Ordinance or at common law.

(b) Where a person is registered as a registered user of a trade mark on an application made within one year from the commencement of this Ordinance, this subsection shall have effect in relation to any previous use (whether before or after the commencement of this Ordinance) of the trade mark by that person, being use in relation to the goods in respect of which he is registered and, where he is registered subject to conditions or restrictions, being use such as to comply substantially therewith, as if such previous use had been permitted use.

(3) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed registered user must apply in writing to the Registrar in the prescribed manner, and must furnish him with a statutory declaration made by the proprietor, or by some person authorized to act on his behalf and approved by the Registrar—

(a) giving particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;

(b) stating the goods in respect of which registration is proposed;

(c) stating any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter; and

(d) stating whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof;

and with such further documents, information or evidence as may be required under the rules or by the Registrar.

(4) When the requirements of subsection (3) have been complied with, if the Registrar, after considering the information furnished to him under that subsection, is satisfied that in all the circumstances the use of the trade mark in relation to the proposed goods or any of them by the proposed registered user subject to any conditions or restrictions which the Registrar thinks proper would not be contrary to the public interest, the Registrar may register the proposed registered user as a registered user in respect of the goods as to which he is so satisfied subject as aforesaid.

(5) The Registrar shall refuse an application under the provisions of subsections (1) to (3) if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

(6) The Registrar shall, if so required by the applicant, take steps for securing that information given for the purpose of an application under the provisions of subsections (1) to (3) (other than matter entered in the register) is not disclosed to rivals in the trade.

Proceedings for infringement.

59. (1) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof, and, if the proprietor refuses or neglects to do so within two months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant.

(2) A proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

Variation or cancellation of registration as a registered user.

60. (1) Without prejudice to the provisions of section 48, the registration of a person as a registered user—

- (a) may be varied by the Registrar as regards the goods in respect of which, or any conditions or restrictions subject to which, it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark to which the registration relates;
- (b) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark; or

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, that is to say—

(i) that the registered user has used the trade mark otherwise than by way of the permitted use, or in such a way as to cause, or to be likely to cause, deception or confusion;

(ii) that the proprietor or the registered user misrepresented, or failed to disclose, some fact material to the application for the registration, or that the circumstances have materially changed since the date of the registration;

(iii) that the registration ought not to have been effected having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested.

(2) The Registrar may at any time cancel the registration of a person as a registered user of a trade mark in respect of any goods in respect of which the trade mark is no longer registered.

61. Provision shall be made by the rules for the notification of the registration of a person as a registered user to any other registered user of the trade mark, and for the notification of an application under section 60 to the registered proprietor and each registered user (not being the applicant) of the trade mark, and for giving to the applicant on such an application, and to all persons to whom such an application is notified and who intervene in the proceedings in accordance with the rules, an opportunity of being heard.

Notification of registration as registered user and of application for variation or cancellation of such registration.

62. Any decision of the Registrar under sections 58 and 60 shall be subject to appeal to the Court.

Registrar's decision subject to appeal to Court.

63. Nothing in sections 58, 59 and 60 shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

Right to use not assignable or transmissible.

Certification Trade Marks.

64. (1) A mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic, from goods not so certified shall be

Marks registrable as certification trade marks.

registrable as a certification trade mark in Part A of the register in respect of those goods in the name, as proprietor thereof, of that person :

Provided that a mark shall not be so registrable in the name of a person who carries on a trade in goods of the kind certified.

(2) In determining whether a mark is adapted to distinguish as aforesaid, the tribunal may have regard to the extent to which—

- (a) the mark is inherently adapted to distinguish as aforesaid in relation to the goods in question; and
- (b) by reason of the use of the mark or of any other circumstances, the mark is in fact adapted to distinguish as aforesaid in relation to the goods in question.

Application for registration as certification trade mark.

65. (1) An application for the registration of a mark under section 64 shall be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof.

(2) The provisions of subsection (2) and of subsections (4) to (7) of section 13 shall have effect in relation to an application under this section as they have effect in relation to an application under subsection (1) of section 13.

(3) In dealing under the said provisions with an application under this section the tribunal shall have regard to the like considerations, so far as relevant, as if the application were an application under section 13 and to any other considerations relevant to applications under this section, including the desirability of securing that a certification trade mark shall comprise some indication that it is such a trade mark.

(4) An applicant for the registration of a mark under this section shall transmit to the Registrar draft regulations for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorize the use of the trade mark, and may contain any other provisions that the Registrar may require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorize the use of the trade mark in accordance with the regulations). The regulations, if approved, shall be deposited with the Registrar and shall be open to inspection in like manner as the register.

(5) The Registrar shall consider the application with regard to the following matters—

- (a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered;
- (b) whether the draft regulations are satisfactory; and
- (c) whether in all the circumstances the registration applied for would be to the public advantage;

and may either—

- (i) refuse to accept the application; or
- (ii) accept the application, and approve the regulations, either without modification and unconditionally or subject to any conditions or limitations, or to any amendments or modifications of the application or of the regulations, which he may think requisite having regard to any of the matters aforesaid;

but, except in the case of acceptance and approval without modification and unconditionally, the Registrar shall not decide the matter without giving to the applicant an opportunity of being heard :

Provided that the Registrar may, at the request of the applicant, consider the application with regard to any of the matters aforesaid before the application has been accepted, so however that the Registrar shall be at liberty to reconsider any matter on which he has given a decision under this proviso if any amendment or modification is thereafter made in the application or in the draft regulations.

(6) Any decision of the Registrar under this section shall be subject to appeal to the Court.

66. (1) When an application for the registration of a certification trade mark has been accepted, whether absolutely or subject to conditions and limitations, the Registrar shall require the applicant to advertise it, as accepted, in the prescribed manner, and the provisions of section 15 shall have effect in relation to the registration of the mark as if the application had been an application under section 13 :

Advertisement of application. Opposition to registration.

Provided that, in deciding under the said provisions, the Registrar shall have regard only to the considerations referred to in subsection (3) of section 65, and a decision under the said provisions in favour of the applicant shall be conditional on the

determination in his favour by the Registrar under subsection (2) of any opposition relating to any of the matters referred to in subsection (5) of section 65.

(2) When notice of opposition is given relating to any of the matters referred to in subsection (5) of section 65, the Registrar shall, after hearing the parties, if so required, and considering any evidence, decide whether, and subject to what conditions and limitations, or amendments or modifications of the application or of the regulations, if any, registration is, having regard to those matters, to be permitted.

Right given by registration, and infringement thereof.

67. (1) Subject to the provisions of subsections (2) to (4) hereof, and of sections 33 and 34, the registration of a person as proprietor of a certification trade mark in respect of any goods, shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods, and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a person authorized by him under the regulations in that behalf using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion, in the course of trade, in relation to any goods in respect of which it is registered, and in such manner as to render the use of the mark likely to be taken either—

- (a) as being use as a trade mark; or
- (b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or by his authorization under the relevant regulations to use the trade mark or to goods certified by the proprietor.

(2) The right to the use of a certification trade mark given by registration as aforesaid shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market, or in any other circumstances, to which, having regard to any such limitations, the registration does not extend.

(3) The right to the use of a certification trade mark given by registration as aforesaid shall not be deemed to be infringed by the use of any such mark as aforesaid by any person—

- (a) in relation to goods certified by the proprietor of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorization under the relevant regulations has applied the trade mark and has not subsequently removed or obliterated it, or the proprietor has at any time expressly or impliedly consented to the use of the trade mark; or
- (b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor:

Provided that paragraph (a) hereof shall not have effect in the case of use consisting of the application of any such mark as aforesaid to any goods, notwithstanding that they are such goods as are mentioned in that paragraph, if such application is contrary to the relevant regulations.

(4) Where a certification trade mark is one of two or more registered trade marks which are identical or nearly resemble each other, the use of any of those trade marks in exercise of the right to the use of that trade mark given by registration shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

68. (1) (a) The regulations deposited in respect of a certification trade mark may, on the application of the registered proprietor, be altered by the Registrar.

Alteration of deposited regulations, or expunging or varying of entry in register relating to certification trade mark.

(b) The Registrar may, before granting an application, cause it to be advertised in any case where it appears to him that it is expedient so to do, and, where the Registrar causes an application to be advertised, if within the prescribed time from the date of the advertisement

any person gives notice to the Registrar of opposition to the application, the Registrar shall not decide the matter without giving the parties an opportunity of being heard.

(2) (a) On application by any person aggrieved to the Court, or at the option of the applicant and in the prescribed manner and subject to the provisions of section 80, to the Registrar, or on application by the Registrar to the Court, the tribunal may make such order as the tribunal thinks fit for expunging or varying any entry in the register relating to a certification trade mark, or for varying the deposited regulations, on the ground—

(i) that the proprietor is no longer competent, in the case of any of the goods in respect of which the trade mark is registered, to certify those goods;

(ii) that the proprietor has failed to observe a provision of the deposited regulations to be observed on his part;

(iii) that it is no longer to the public advantage that the trade mark should be registered; or

(iv) that it is requisite for the public advantage that, if the trade mark remains registered, the regulations should be varied.

(b) The Registrar shall rectify the register or the deposited regulations in such manner as may be requisite for giving effect to an order made under paragraph (a) hereof.

Certification trade mark assignable or transmissible only with Registrar's consent.

69. (1) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Registrar, who before giving his decision shall consider—

(a) whether the person to whom it is proposed to assign or transmit the mark is competent to certify the goods in respect of which the mark is registered, and

(b) whether in all the circumstances the proposed assignment or transmission would be to the public advantage.

(2) A certification trade mark shall not be assignable or transmissible to a person who carries on a trade in goods of the kind certified.

(3) Any decision of the Registrar under this section shall be subject to appeal to the Court.

70. Notwithstanding anything in section 82, the Registrar shall not have any jurisdiction to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorize the use of the trade mark.

Registrar not empowered to award costs on appeals to him.

71. The following provisions of this Ordinance shall not have effect in relation to a certification trade mark, that is to say, section 9, sections 13 to 15 (except as expressly applied by sections 65 and 66), sections 19, 27, 32, 37 and 40, subsections (4) to (7) of section 41, and sections 55 to 63, and any provisions the operation of which is limited by the terms thereof to registration in Part B of the register.

Provisions not applicable to certification trade marks.

72. Sections 64 to 71 shall have effect, in relation to a trade mark that immediately before the commencement of this Ordinance was on the register by virtue of section 59 of the Trade Marks Ordinance repealed by section 92, as if the sections had been in force at the date of the registration of the trade mark and it had been registered under those sections, subject however to the following modifications, that is to say—

Trade mark registered under section 59 of Trade Marks Ordinance (Cap. 43) to be deemed registered as a certification trade mark under this Ordinance.

(a) that the proviso to subsection (1) of section 64 shall not apply;

(b) that sections 64 to 71 shall have effect as if references therein to the regulations governing the use of certification trade marks had been omitted; and

(c) that the proprietor shall be at liberty, or may be required by the Registrar as a condition of the continuance of the registration, to deposit at any time after the commencement of this Ordinance such regulations as the Registrar may permit or require.

Powers and duties of Registrar.

73. (1) The power to give to a person who proposes to apply for the registration of a trade mark in Part A or Part B of the register advice as to whether the trade mark appears to the Registrar *prima facie* to be inherently adapted to distinguish, or capable of distinguishing, as the case may be, shall be a function of the Registrar under this Ordinance.

Preliminary advice by Registrar as to distinctiveness.

(2) Any person who is desirous of obtaining advice as aforesaid shall make application to the Registrar in the prescribed manner.

(3) If on an application for the registration of a trade mark as to which the Registrar has given advice as aforesaid in the affirmative, made within three months after the advice is given, the Registrar, after further investigation or consideration, gives notice to the applicant of objection on the ground that the trade mark is not adapted to distinguish, or capable of distinguishing, as the case may be, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid for the filing of the application.

Hearing before exercise of discretionary power of Registrar.

74. Where any discretionary or other power is given to the Registrar by this Ordinance or by the rules, he shall not exercise that power adversely to the applicant for registration or the registered proprietor of the trade mark in question without (if duly required so to do within the prescribed time) giving to the applicant or registered proprietor an opportunity of being heard.

Legal proceedings and appeals.

Certificate of validity.

75. In any legal proceeding in which the validity of the registration of a registered trade mark comes into question and is decided in favour of the proprietor of the trade mark, the Court may certify to that effect, and if it so certifies then in any subsequent legal proceeding in which the validity of the registration comes into question the proprietor of the trade mark on obtaining a final order or judgment in his favour shall have his full costs, charges and expenses as between solicitor and client, unless in the subsequent proceeding the Court certifies that he ought not to have them.

Trade usage, etc., to be considered.

76. In any action or proceeding relating to a trade mark or trade name the tribunal shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get-up legitimately used by other persons.

77. (1) In any legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the Court.

Registrar's appearance in proceedings involving rectification.

(2) Unless otherwise directed by the Court, the Registrar in lieu of appearing and being heard may submit to the Court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting it or of the practice of his office in like cases, or of such other matters relevant to the issues, and within his knowledge as Registrar, as he thinks fit, and the statement shall be deemed to form part of the evidence in the proceeding.

78. Except when expressly given by the provisions of this Ordinance or the rules there shall be no appeal from a decision of the Registrar, but the Court in dealing with any question of the rectification of the register (including all applications under the provisions of section 48) shall have power to review any decision of the Registrar relating to the entry in question or the correction sought to be made.

Appeal from Registrar.

79. (1) Every order of the Court shall be subject to appeal to the Full Court. The appeal shall be commenced within twenty-one days from the time when the decision appealed against is pronounced or made.

Appeal to Full Court. Discretion of Court in appeals.

(2) In any appeal from a decision of the Registrar to the Court under this Ordinance, the Court shall have and exercise the same discretionary powers as under this Ordinance are conferred upon the Registrar.

80. Where under any of the provisions of this Ordinance an applicant has an option to make an application either to the Court or to the Registrar—

Procedure in case of option to apply to Court or Registrar.

- (a) if an action concerning the trade mark in question is pending, the application must be made to the Court;
- (b) if in any other case the application is made to the Registrar, he may, at any stage of the proceedings, refer the application to the Court, or he may, after hearing the parties, determine the question between them, subject to appeal to the Court.

Costs.

Costs of proceedings before the Court.

81. In all proceedings before the Court under this Ordinance the Court may award to any party such costs as it may consider reasonable and the costs of the Registrar shall be in the discretion of the Court, but the Registrar shall not be ordered to pay the costs of any other of the parties.

Costs of proceedings before the Registrar.

82. Save as otherwise provided in this Ordinance, in all proceedings before the Registrar, he shall have power to award to any party such costs as he may consider reasonable, and to direct how and by what parties they are to be paid, and any such order may, by leave of the Court or a judge thereof, be enforced in the same manner as a judgment or order of the Court to the same effect.

Evidence.

Mode of giving evidence.

83. (1) In any proceeding under this Ordinance before the Registrar, the evidence shall be given by statutory declaration in the absence of directions to the contrary, but, in any case in which he shall think it right to do so, he may take evidence *viva voce* in lieu of or in addition to evidence by declaration. Any such statutory declaration may in the case of appeal be used before the Court in lieu of evidence by affidavit, but if so used shall have all the incidents and consequences of evidence by affidavit.

(2) In case any part of the evidence is taken *viva voce*, the Registrar shall, in respect of requiring the attendance of witnesses and taking evidence on oath, be in the same position in all respects as a special referee appointed by the Court.

Evidence of entries in Hong Kong or United Kingdom Register.

84. A printed or written copy of any entry in the register, purporting to be certified by the Registrar and sealed with his seal, or of any entry in the United Kingdom Register, purporting to be certified by the Comptroller-General of the United Kingdom Patent Office and sealed with the seal of the Patent Office, shall be admitted in evidence in all Courts, and in all proceedings, without further proof or production of the original.

Evidence of entries made or of things

85. A certificate purporting to be under the hand of the Registrar, or of the Comptroller-General of the United Kingdom Patent Office, as to any entry, matter or thing which he is

authorized to make or do, shall be *prima facie* evidence of the entry having been made, and of the contents thereof, and of the matter or thing having been done or not done.

done by Registrar, or Comptroller-General of U.K. Patent Office.

Offences, and restraint of use of Royal Arms.

86. If any person makes or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of a misdemeanor.

Falsification of entries in register.

87. (1) Any person who makes a representation—

Falsely representing a trade mark as registered.

- (a) with respect to a mark not being a registered trade mark, to the effect that it is a registered trade mark; or
- (b) with respect to a part of a registered trade mark not being a part separately registered as a trade mark, to the effect that it is so registered; or
- (c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not registered; or
- (d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered on the register, the registration does not give that right,

shall be liable to a fine of five hundred dollars.

(2) For the purposes of this section, the use in the Colony in relation to a trade mark of the word "registered", or of any word referring whether expressly or impliedly to registration, shall be deemed to import a reference to registration in the register, except—

- (a) where that word is used in physical association with other words delineated in characters at least as large as those in which that word is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside the Colony, being a country under the law of which the registration referred to is in fact in force;

- (b) where that word (being a word other than the word "registered") is of itself such as to indicate that the reference is to such registration as last aforesaid; or
- (c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside the Colony and in relation to goods to be exported to that country.

Restraint of use of Royal Arms.

88. If any person, without the authority of Her Majesty, uses, in connexion with any trade, business, calling or profession, the Royal Arms (or arms so closely resembling the same as to be calculated to deceive) in such manner as to be calculated to lead to the belief that he is duly authorized so to use the Royal Arms, or if any person, without the authority of Her Majesty or of a member of the Royal Family, uses, in connexion with any trade, business, calling or profession, any device, emblem or title in such manner as to be calculated to lead to the belief that he is employed by, or supplies goods to, Her Majesty or such member of the Royal Family, he may, at the suit of any person who is authorized to use such arms or such device, emblem or title, or who is authorized by the Governor to take proceedings in that behalf, be restrained by injunction from continuing so to use the same:

Provided that nothing in this section shall be construed as affecting the right, if any, of the proprietor of a trade mark containing any such arms, device, emblem or title to continue to use such trade mark.

Agents.

Recognition of agents.

89. Where by this Ordinance any act has to be done by or to any person in connexion with a trade mark or proposed trade mark or any procedure relating thereto, the act may, under and in accordance with the rules, or in particular cases by special leave of the Registrar, be done by or to an agent of that person duly authorized in the prescribed manner.

Rules.

Power of Governor in Council to make rules.

90. (1) The Governor in Council may by rules prescribe or provide for—
(a) regulating the practice under this Ordinance, including the service of documents;
(b) classifying goods for the purposes of registration of trade marks;

- (c) making or requiring duplicates of trade marks and other documents;
- (d) securing and regulating the publishing and selling or distributing, in such manner as the Governor in Council may think fit, of copies of trade marks and other documents;
- (e) forms which shall be used for carrying out the provisions of this Ordinance;
- (f) fees which shall be paid in respect of applications and registrations and other matters under this Ordinance;
- (g) regulating the business of the registry in relation to trade marks and all things by this Ordinance placed under the direction or control of the Registrar;
- (h) generally, the carrying into effect the provisions of this Ordinance.

(2) The rules in the Schedule shall be in force except in so far as they may be amended by rules made under this section. Schedule.

Transitional provisions.

91. (1) Nothing in this Ordinance shall be taken to invalidate the original registration of a trade mark that immediately before the commencement of this Ordinance was validly on the register. Validity of registrations under previous enactments.

(2) No trade mark which was on the register at the commencement of this Ordinance and which under this Ordinance is a registrable trade mark shall be removed from the register on the ground that it was not registrable under the Ordinance in force at the date of its registration.

(3) Nothing in this section shall be construed as having subjected any person to any liability in respect of any act or thing done before the commencement of this Ordinance to which he would not have been subject under the Ordinance then in force.

92. The Trade Marks Ordinance is repealed, and all rules made thereunder are hereby revoked as and from the commencement of this Ordinance: Repeal. (Cap. 43).

Provided always that the provisions of that Ordinance shall apply to all such applications as may be pending at the date of the commencement of this Ordinance.

TRADE MARKS ORDINANCE, 1954.

SCHEDULE.

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TRADE MARKS RULES, 1954.

- Citation. 1. These rules may be cited as the Trade Marks Rules, 1954.
- Inter-pretation. 2. In these rules, unless the context otherwise requires—
 "agent" means an agent duly authorized to the satisfaction of the Registrar in accordance with paragraph (2) of rule 102;
 "franked" means machine-franked by the Accounts Office of the Registrar General's Department in acknowledgment of receipt of a fee payable under Schedule 1 to these rules;
 "Registry" means the Trade Marks Registry, Hong Kong;
 "section" means a section of the Ordinance, a subsection being indicated by a number enclosed in brackets immediately following the number of the section;
 "specification" means the designation of goods in respect of which a trade mark, or a registered user of a trade mark, is registered or proposed to be registered.

*Registrability of Trade Marks (Sections 9 to 12).
Preliminary Advice (Section 73).*

- Unaccept-able words and representa-tions. 3. (1) The Registrar may refuse to accept any application for the registration of a mark upon which any of the following appear—
 (a) The words "Patent", "Patented", "Registered", "Registered Design", "Copyright", "Entered at Stationers' Hall", "To counterfeit this is a forgery", or words to like effect.
 (b) Representations of Their Majesties or any member of the Royal Family, or any colourable imitations thereof.
 (c) The words "Red Cross" or "Geneva Cross" and representations of the Geneva and other crosses in red, or of the Swiss Federal cross in white on a red ground or silver on a red ground, or such representations in a similar colour or colours.

(2) Where there appears in a trade mark the registration of which is applied for a representation of a cross in any colour, not being one of those mentioned in sub-paragraph (c) of paragraph (1), the Registrar may require the applicant as a condition of acceptance to undertake not to use the cross device in red, or in white on a red ground or silver on a red ground, or in any similar colour or colours.

(3) Representations of exhibition medals and awards that have been granted to an applicant or his predecessor in business in respect of the goods for which a trade mark is proposed to be registered may appear on the mark but shall not be accepted as a registrable feature thereof. Representations of medals and awards that have not been so granted to the applicant or his predecessor in business may not appear on the mark.

4. Representations of the Royal or Imperial Arms, crests, armorial bearings or insignia, or devices so nearly resembling them as to be likely to lead to mistake, or of British Royal or Imperial crowns, or of the Royal, Imperial or National flags, or the words "Royal" or "Imperial" or any other words, letters, or devices likely to lead persons to think that the applicant either has or recently has had Royal patronage or authorization, or the word "Anzac" may not appear on trade marks the registration of which is applied for. Royal Arms, etc.

5. Where a representation of the armorial bearings, insignia, orders of chivalry, decorations, flags or devices of any state, city, borough, town, place, society, body corporate, institution or person appears on a mark, the Registrar, before proceeding to register the mark, may require to be furnished with a consent to the registration and use of such emblems from such official or other person as appears to the Registrar to be entitled to give consent, and in default of such consent he may refuse to register the mark. Armorial bearings, insignia, flags, etc.

6. Where the name or representation of any person appears on a trade mark, the Registrar shall, if he so require, before proceeding to register the mark be furnished with consent from him or, in the case of a person recently dead, from his legal representatives, and in default of such consent he may refuse to register the mark. Living persons or persons recently dead.

Name or description of goods.

7. (1) Where the name or description of any goods appears on a trade mark, the Registrar may refuse to register such mark in respect of any goods other than the goods so named or described.

(2) Where the name or description of any goods appears on a trade mark, which name or description in use varies, the Registrar may permit the registration of the mark for those and other goods, and in that case the applicant shall state in his application that the name or description will be varied when the mark is used upon goods covered by the specification other than the named or described goods.

Preliminary advice by Registrar as to distinctiveness.

8. (1) Any person who proposes to apply for the registration of a trade mark in Part A or Part B of the register in respect of any goods may apply to the Registrar on a franked Form TM—No. 1, or on a franked Form TM—No. 2 in a case when he is also making an application under paragraph (1) of rule 108, for advice as to whether the trade mark, of which representations shall accompany the Form, appears to the Registrar *prima facie* to be inherently adapted to distinguish within the meaning of section 9 or inherently capable of distinguishing within the meaning of section 10 as the case may be in relation to those goods, and shall apply separately in relation to goods comprised within different classes of goods in Schedule IV.

(2) A notice of withdrawal of an application for the registration of a trade mark given under section 73(3) for the purpose of obtaining repayment of any fee paid on the filing of the application shall be given in writing within two months from the date of the notice of the Registrar's objection.

Application for Registration of a Trade Mark.
(Section 13).

Form of application.

9. (1) An application under section 13 for the registration of a trade mark in Part A or Part B of the register shall be addressed to the Registrar on a franked Form TM—No. 3, and shall have affixed thereto a representation of the mark. The application shall be signed by the applicant or his agent. If the application is made for or on behalf of a partnership or a body corporate it shall be signed in manner provided by rule 96, but in either case it may be signed by an agent authorized in accordance with the provisions of paragraph (2) of rule 102.

(2) Each application shall be accompanied by a statutory declaration on Form TM—No. 4, which shall be made by the applicant in person, and not by an agent, subject to the provisions of rules 96, 106 and 107:

Provided that when two or more applications are made simultaneously by the same applicant, and the particulars to be furnished in all four paragraphs of the Form are exactly similar for all applications, one statutory declaration may be accepted. In such a case specimens of all marks shall be affixed to the declaration.

(3) Each application shall be for registration in respect of goods in one class only of Schedule IV.

(4) Each application shall be accompanied by three additional representations of the trade mark exactly corresponding to that affixed to Forms TM—No. 3 and TM—No. 4.

10. In the case of an application under section 13 for registration in respect of all the goods included in a class, or of a large variety of goods, the Registrar may refuse to accept the application unless he is satisfied that the specification is justified by the use of the mark which the applicant has made, or intends to make if and when it is registered.

Specification must be justified by use or intended use.

11. Applications under section 13 for the registration of the same mark in different classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods in more than one class, whether on conversion of the specification under rule 75 or otherwise, the registration in respect of the goods included in each separate class shall be deemed to be a separate registration for all the purposes of the Ordinance.

Separate applications for different classes.

12. In any application under section 13, the Registrar, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

Representations of marks to be satisfactory.

13. In any application under section 13—

(a) where a drawing or other representation or specimen cannot be given in manner aforesaid, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale, and in such form as the Registrar may think most convenient; and

Specimens of trade marks in exceptional cases.

(b) the Registrar may also, in exceptional cases, deposit in the Registry a specimen or copy of any trade mark which cannot conveniently be shown by a representation, and may refer thereto in the register in such manner as he may think fit.

Series of trade marks.

14. When application under section 13 is made for the registration of a series of trade marks under section 26, a representation of each trade mark of the series shall be affixed, as aforesaid, to the application form, and three additional sets of representations shall be supplied therewith.

Transliteration and translation.

15. In any application under section 13—

- (a) where a trade mark contains a word or words in characters other than Roman, there shall, unless the Registrar otherwise directs, be endorsed on the application form a sufficient transliteration and translation to the satisfaction of the Registrar of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant or his agent; and
- (b) where a trade mark contains a word or words in a language other than English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be endorsed and signed as aforesaid.

Procedure on Receipt of an Application for Registration of a Trade Mark.

Search.

16. Upon receipt of an application for the registration of a trade mark in respect of any goods the Registrar shall cause a search to be made, amongst the registered marks and pending applications, for the purpose of ascertaining whether there are on record in respect of the same goods or description of goods any marks identical with the mark applied for, or so nearly resembling it as to render the mark applied for likely to deceive or cause confusion.

17. After such search, and consideration of the application, and of any evidence of use or of distinctiveness or of any other matter which the applicant may or may be required to furnish, the Registrar may accept the application absolutely, or he may object to it, or he may express his willingness to accept it subject to such conditions, amendments, disclaimer, modifications or limitations as he may think right to impose.

Acceptance, absolute or conditional; objection.

18. If the Registrar objects to the application, he shall inform the applicant of his objections in writing, and unless within one month the applicant applies for a hearing or makes a considered reply in writing to those objections he shall be deemed to have withdrawn his application.

Registrar's objections. Hearing.

19. (1) If the Registrar is willing to accept the application subject to any conditions, amendments, disclaimer, modifications or limitations, he shall communicate such willingness to the applicant in writing, and, if the applicant objects to such conditions, amendments, disclaimer, modifications, or limitations he shall within one month from the date of the communication apply for a hearing or communicate his considered objections in writing, and if he does not do so he shall be deemed to have withdrawn his application. If the applicant does not object to such conditions, amendments, disclaimer, modifications or limitations, he shall forthwith notify the Registrar in writing, and alter his application accordingly.

Registrar's conditions, etc. Hearing.

(2) The Registrar may require that a transliteration or translation of a word trade mark, or the name of a device trade mark, appears on the mark in Chinese characters if in his opinion this is necessary to avoid the likelihood of deception or confusion and for the protection of the public.

20. (1) The decision of the Registrar, at a hearing as in rule 18 or rule 19, or without a hearing if the applicant has duly communicated his considered objections or considered reply in writing, and has stated that he does not desire to be heard, shall be communicated to the applicant in writing, and if the applicant objects to such decision he may within one month by applying upon a franked Form TM—No. 5 require the Registrar to state in writing the grounds of, and the materials used by him in arriving at, his decision.

Decision of Registrar.

(2) In a case where the Registrar makes any requirements to which the applicant does not object, the applicant shall comply therewith before the Registrar issues such statement in writing. The date when such statement is sent to the applicant shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

Disclaimer.

21. The Registrar may call on an applicant to insert in his application such disclaimer as the Registrar may think fit, in order that the public generally may understand what the applicant's rights, if his mark is registered, will be.

Advertisement of Application for Registration of a Trade Mark (Section 14).

Advertisement of application.

22. (1) An application for the registration of a trade mark required or permitted to be advertised by section 14 shall be advertised by the applicant in one issue of the *Gazette*.

(2) In the case of an application with which the Registrar proceeds only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant, the words "BY CONSENT" shall appear in the advertisement.

(3) If, with the approval of the Registrar, no representation of the trade mark is included in the advertisement of the application, the applicant shall supply a detailed description of the trade mark, approved by the Registrar, and shall state in the advertisement that a representation of the trade mark is deposited in the Registry for inspection.

(4) When an application relates to a series of trade marks the Registrar may, if he thinks fit, direct the applicant to insert with the advertisement of the application a statement of the manner in which the several trade marks differ from one another.

Opposition to Application for Registration of a Trade Mark (Section 15).

Notice of opposition.

23. Any person may within a period of two months from the date of the advertisement of an application for registration of a trade mark give notice in writing to the Registrar of opposition

to the registration. The notice shall be on a franked Form TM—No. 6 and shall contain a statement of the grounds upon which the opponent objects to the registration. It shall be accompanied by an unfranked duplicate which the Registrar shall send to the applicant.

24. Within one month from the receipt of such duplicate the applicant shall send to the Registrar a counter-statement on a franked Form TM—No. 7 setting out the grounds on which he relies as supporting his application. The applicant shall also set out what facts, if any, alleged in the notice of opposition he admits. The counter-statement shall be accompanied by an unfranked duplicate which the Registrar shall send to the opponent.

Counter-statement.

25. Within one month from the receipt of the duplicate the opponent shall leave with the Registrar such evidence by way of statutory declaration as he desires to adduce in support of his opposition. The statutory declaration shall be accompanied by a duplicate which the Registrar shall send to the applicant.

Evidence in support of opposition.

26. If an opponent leaves no evidence, he shall, unless the Registrar otherwise directs, be deemed to have abandoned his opposition but, if he does leave evidence, then, within one month from the receipt of the duplicate, the applicant shall leave with the Registrar such evidence by way of statutory declaration as he desires to adduce in support of his application. The statutory declaration shall be accompanied by a duplicate which the Registrar shall send to the opponent.

Evidence in support of application.

27. Within fourteen days from the receipt of the duplicate copy of the statutory declaration the opponent may leave with the Registrar evidence by way of statutory declaration confined strictly to matters in reply. The statutory declaration shall be accompanied by a duplicate which the Registrar shall send to the applicant.

Evidence in reply by opponent.

28. No further evidence shall be left by either side, but in any proceedings before the Registrar he may at any time, if he thinks fit, give leave to either the applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as the Registrar may think fit.

Further evidence.

Exhibits.

29. Where there are exhibits to statutory declarations left with the Registrar in an opposition, copies or impressions of the exhibits shall be sent to the other party on his request, and at his expense, or if such copies or impressions cannot conveniently be furnished, the originals shall be left with the Registrar so that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

Hearing.

30. (1) Upon completion of the evidence the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. The appointment shall be for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice. Within seven days from the receipt of the notice any party who intends to appear shall so notify the Registrar on a franked Form TM—No. 8. A party who receives notice as aforesaid and who does not, within seven days from the receipt thereof, so notify the Registrar on Form TM—No. 8, may be treated as not desiring to be heard and the Registrar may act accordingly.

(2) The Registrar shall communicate to the parties, in writing, his decision and the grounds of his decision, within thirty days of the termination of the hearing.

Extension of time.

31. Where in opposition proceedings an extension of time is granted under rule 91 to any party, the Registrar may thereafter, if he thinks fit, without giving the party so favoured a hearing, grant any reasonable extension of time to the other party in which to take any subsequent step.

Withdrawal of appeal.

32. Where under section 15(8) an appellant is entitled to withdraw his appeal, the withdrawal shall be effected by notice given to the Registrar and to the other parties, if any, to the appeal within seven days after the leave referred to in that section has been obtained.

Advertisement of trade mark as amended under section 15(9).

33. When under section 15(9) permission is given for a trade mark to be modified, the Registrar shall require the mark as amended to be advertised in one issue of the *Gazette*.

34. (1) Where a party giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice neither resides nor carries on business in the Colony, the Registrar may require him to give security, in such form as the Registrar may deem sufficient, for the costs of the proceedings before the Registrar, for such amount as to the Registrar may seem fit, and at any stage in the opposition proceedings may require further security to be given at any time before giving his decision in the case.

Costs: Security for costs. Costs in uncontested cases.

(2) In the event of an opposition being uncontested by the applicant, the Registrar in deciding whether costs should be awarded to the opponent shall consider whether proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was lodged.

Registration of a Trade Mark (Section 17).

35. (1) As soon as may be after the expiration of two months from the date of the advertisement in the *Gazette* of any application for the registration of a trade mark, the Registrar shall, subject to any opposition and the determination thereof, and subject to the provisions of section 17(1), and upon payment of the prescribed fee on a franked Form TM—No. 9, enter the trade mark in the register. The entry of a trade mark in the register shall give the date of the registration, the goods in respect of which it is registered, and all particulars named in section 3, and such other particulars as the Registrar may deem necessary.

Entry in register.

(2) In the case of an application which the Registrar accepts only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant for registration, the aforesaid entry in the register shall state that it is "BY CONSENT", and shall give the number of the previous registration or the application for registration.

(3) When a trade mark has been entered in the register, the registration shall be advertised in the *Gazette*.

36. In the case of the death of any applicant for the registration of a trade mark after the date of his application, and before the trade mark applied for has been entered in the register, the Registrar, after the expiration of the prescribed period of adver-

Death of applicant before registration.

tisement and the determination of any opposition to the application, may, on being satisfied of the applicant's death, enter in the register, in place of the name of such deceased applicant, the name, address and description of the person owning the trade mark, on such ownership being proved to the satisfaction of the Registrar.

Certificate of registration.

37. Upon the registration of a trade mark the Registrar shall issue to the applicant a certificate in Form TM—No. 10, and shall affix thereto a copy of the mark supplied by the applicant under rule 9(4). No fee shall be charged for the certificate.

Non-Completion of Registration (Section 17(4)).

Non-completion within twelve months.

38. Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar shall on Form TM—No. 11 give notice to the applicant or to his agent of such non-completion. If after fourteen days from the date when the notice was sent, or such further time as the Registrar may allow, the registration is not completed, the application shall be deemed to be abandoned.

Associated Trade Marks (Section 24).

Associated marks.

39. (1) Where a mark is registered as associated with any other mark or marks the Registrar shall note upon the register in connexion with the first-mentioned mark the numbers of the marks with which it is associated, and shall also note upon the register in connexion with each of the associated marks the number of the first-mentioned mark as being a mark associated therewith.

(2) An application by a registered proprietor under section 24(2) to dissolve the association between two or more associated trade marks shall be made on a franked Form TM—No. 12, and shall include a statement of the grounds of the application.

Assignment and Transmission (Sections 41 to 44).

Joint application for entry of assignment or transmission.

40. Where a person becomes entitled by assignment or transmission to a registered trade mark he may, conjointly with the registered proprietor, make application to the Registrar on a franked Form TM—No. 13 to register his title.

41. Where a person becomes entitled to a registered trade mark in the manner referred to in rule 40, and no conjoint application as therein mentioned is made, he shall make application to the Registrar on a franked Form TM—No. 14 to register his title.

Application by subsequent proprietor for entry of assignment or transmission.

42. An application under rule 40 or rule 41 shall contain the name, trade or business address, nationality and description of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims, and such instrument shall be produced to the Registrar for inspection, preferably at the time of application. The full names of all the partners in a partnership shall be given in the body of the application. The Registrar may in any case require and retain an attested copy of any instrument produced for inspection in proof of title, but such copy shall not be open to public inspection.

Particulars to be stated in application.

43. Where in the case of an application on franked Form TM—No. 13 or TM—No. 14 the person applying for registration of his title does not claim under any document or instrument which is capable in itself of furnishing proof of his title, he shall, unless the Registrar otherwise directs, either upon or with the application, state a case setting forth the full particulars of the facts upon which his claim to be proprietor of the trade mark is based, and showing that the trade mark has been assigned or transmitted to him. If the Registrar so requires, the case shall be verified by a statutory declaration on Form TM—No. 15.

Case accompanying application.

44. The Registrar may call on any person who applies to be registered as proprietor of a registered trade mark for such proof or additional proof of title as he may require for his satisfaction.

Proof of title.

45. (1) An application under rule 40 or rule 41 relating to an assignment, on or after the date of the commencement of the Ordinance, of a trade mark in respect of any goods shall state—

Application for entry of assignment without goodwill.

- (a) whether the trade mark was, at the time of the assignment, used in a business in any of those goods; and
- (b) whether the assignment was made otherwise than in connexion with the goodwill of that business,

and, if both these circumstances subsisted, then the applicant shall leave with the Registrar a copy of the Registrar's directions to advertise the assignment, obtained upon application under section 41(6) and rule 49, and such proof, including copies of advertisements or otherwise, as the Registrar may require that his directions have been fulfilled; and if the Registrar is not satisfied that the directions have been fulfilled, he shall not proceed with the application.

(2) For the purposes of section 18(3), the period within which a corporation may be registered as the subsequent proprietor of a registered trade mark upon application made under rule 40 or rule 41, shall be six months from the date on which the trade mark was entered in the register, or such further period not exceeding six months as the Registrar may allow, on application being made to him on a franked Form TM—No. 16, by the applicant for registration of title or the registered proprietor, as the case may be, at any time before or during the period for which the extension can be allowed.

Entry in register.

46. (1) When the Registrar is satisfied as to the title of the person claiming to be registered, he shall cause him to be registered as proprietor of the trade mark in respect of the relevant goods, and shall enter in the register his name, trade, or business address and description and particulars of his assignment or transmission.

(2) If so requested by the registered proprietor the Registrar shall make an endorsement of the assignment or transmission on the certificate of registration.

Separate registrations.

47. Where pursuant to an application under rule 40 or rule 41, and as the result of a division and separation of the goods of a registration or a division and separation of markets, different persons become registered separately under the same official number as subsequent proprietors of a trade mark, each of the resulting separate registrations in the names of those different persons shall be deemed to be a separate registration for all the purposes of the Ordinance.

Registrar's certificates.

48. Any person who desires to obtain the Registrar's certificate under section 41(5) shall send to the Registrar, with his application on a franked Form TM—No. 17 a statement of case

in duplicate setting out the circumstances, and a copy of any instrument or proposed instrument effecting the assignment or transmission. The Registrar may call for any evidence or further information that he may consider necessary, and the statement of case shall be amended if required to include all the relevant circumstances and shall if required be verified by a statutory declaration. The Registrar, after hearing if so required the applicant and any other person whom the Registrar may consider to be interested in the transfer, shall consider the matter and issue a certificate thereon or a notification in writing of approval or disapproval thereof, as the case may be. Where a statement of case is amended, two fair copies thereof in its final form shall be left with the Registrar. The Registrar shall attach a copy of the statement of case in its final form to the certificate and affix his seal thereto.

49. (1) An application to the Registrar under section 41(6) shall be made by the assignee on a franked Form TM—No. 18 and shall state the date on which the assignment was made. The application shall give particulars of the registration in the case of a registered trade mark, and, in the case of an unregistered trade mark, shall show the mark and give particulars of the registered trade mark that has been assigned therewith in accordance with section 41(3). The Registrar may call for any evidence or further information, and if he is satisfied with regard to the various matters he shall issue directions in writing with respect to the advertisement of the assignment.

Registrar's directions for advertisement of assignment without goodwill of trade mark in use.

(2) A request to the Registrar for an extension of the period within which the application may be made, which shall be on a franked Form TM—No. 19, may be made at any time before or during the period for which extension can be allowed. The extension of the period which the Registrar may allow shall not exceed three months.

Certification Trade Marks (Sections 64, 65, 66 and 68).

50. An application for the registration of a certification trade mark under section 64 shall be made to the Registrar upon a franked Form TM—No. 20, and shall be accompanied by a duplicate of the application on an unfranked Form TM—No. 20.

Application for registration.

Rules to apply as to applications for registration of ordinary trade marks.

51. (1) These rules shall apply to such applications as they apply to applications for the registration of ordinary trade marks, except that the applicant shall not be deemed to have abandoned his application if in the circumstances of rule 18 or rule 19 he does not apply for a hearing or reply in writing.

(2) The address of an applicant to register a certification trade mark shall be deemed to be a trade or business address for all the purposes for which such an address is required by these rules.

Case: Draft regulations.

52. The applicant shall send to the Registrar with his application or when required by the Registrar a case setting out the grounds on which he relies in support of his application together with draft regulations for governing the use of the mark on Form TM—No. 21, all being in duplicate. The Registrar may communicate to the applicant any observations he may have to make on the sufficiency of the case or the suitability of the draft regulations and the applicant may modify either of those documents. The Registrar may at any time call for such evidence, if any, as he thinks fit and shall, if required, hear the applicant before acting as provided in section 65(5). When the application has been accepted the approved regulations, as well as the form of application, shall be open to public inspection.

Advertisement of application.

53. An application for the registration of a certification trade mark required to be advertised under section 66 shall be advertised by the applicant in one issue of the *Gazette*. The advertisement shall set forth all the conditions and limitations subject to which the application has been accepted.

Opposition to application.

54. (1) Any person may within a period of two months from the date of the advertisement of an application for registration of a certification trade mark give notice in writing to the Registrar of opposition under section 66(1). The notice shall be on a franked Form TM—No. 6 and rules 23 to 34 shall apply to the proceedings thereon.

(2) Within the same period as is mentioned in paragraph (1) any person may give notice to the Registrar on a franked Form TM—No. 22 of opposition under section 66(2). Rules 23 to 34 shall apply *mutatis mutandis* to the proceedings on such notice of opposition with substitution of a franked Form TM—No. 23

for Form TM—No. 7, and of a franked Form TM—No. 24 for Form TM—No. 8. In any case of doubt any party may apply to the Registrar for directions.

55. An application by a registered proprietor of a certification trade mark under section 68(1) for an alteration of the deposited regulations shall be made on a franked Form TM—No. 25. Where the Registrar requires such an application to be advertised by the applicant in the *Gazette* the time within which any person may give notice to the Registrar of opposition to the application shall be two months from the date of the advertisement.

Application by registered proprietor for alteration of regulations.

56. An application by an aggrieved person to the Registrar under section 68(2) for the expunging or varying of an entry in the register of or relating to a certification trade mark, or for varying the relevant deposited regulations, shall be made on a franked Form TM—No. 26, and shall include full particulars of the grounds on which the application is made.

Rectification of certification trade mark entries in register.

Renewal of Registration (Sections 45 to 47).

57. At any time not more than three months before the expiration of the last registration of a trade mark any person may leave at the Registry a fee for the renewal of the registration of the mark upon a franked Form TM—No. 27, and, if he is not the registered proprietor, shall sign a statement on the Form that he is directed by the registered proprietor to pay the fee (if such be the case) and shall give his address. Before taking any further step the Registrar may either—

Renewal of registration.

- (a) require the person leaving the fee to furnish within ten days an authority to pay the fee signed by the registered proprietor, and if he does not furnish such authority may return the fee and treat it as not received; or
- (b) communicate with the registered proprietor stating that the fee has been received and that the registration will in due course be renewed.

58. At a date not less than one month and not more than two months before the expiration of the last registration of a mark, if no fee upon the Form TM—No. 27 has been received, the Registrar shall notify the registered proprietor in writing of the approaching expiration.

Notice before expiration of registration.

Advertisement of non-payment of renewal fee.

59. If at the date of the expiration of the last registration of a mark the renewal fee has not been paid, the Registrar shall advertise the fact in the *Gazette*, and if within one month of that advertisement the renewal fee upon a franked Form TM—No. 27 together with an additional fee upon a franked Form TM—No. 28 is received, he may renew the registration without removing the mark from the register.

Removal of trade mark from register. Restoration.

60. Where, at the expiration of one month from the advertisement mentioned in rule 59, the fees therein mentioned have not been paid, the Registrar may remove the mark from the register as of the date of the expiration of the last registration, but may, upon payment of the renewal fee upon a franked Form TM—No. 27 together with a restoration fee upon a franked Form TM—No. 29, restore the mark to the register if satisfied that it is just so to do, and upon such conditions as he may think fit to impose.

Record of removal.

61. Where a trade mark has been removed from the register, the Registrar shall cause to be entered in the register a record of the removal and of the cause thereof.

Notice and advertisement of renewal and restoration.

62. (1) Upon the renewal or restoration and renewal of a registration, a notice to that effect shall be sent to the registered proprietor and the renewal or restoration and renewal shall be advertised in the *Gazette*.

(2) If so requested by the registered proprietor the Registrar shall make an endorsement of the renewal on the certificate of registration.

Rectification and Correction of Register
(Sections 37, 48, 49, 50 and 57).

Application to rectify or remove a trade mark from the register.

63. An application to the Registrar under any of the sections 37, 48, 49, 50 or 57 for the making, expunging or varying of any entry in the register shall be made on a franked Form TM—No. 30, and shall be accompanied by a statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks. Where the application is made by a person who is not the registered proprietor of the trade mark in question it shall be accompanied by an unfranked copy of the application and a copy of the statement, and these copies will be transmitted forthwith by the Registrar to the registered proprietor.

64. Upon such application being made, and copy thereof transmitted to the registered proprietor, if necessary, the provisions of rules 24 to 31 and 34 shall apply *mutatis mutandis* to the further proceedings thereon; but the Registrar shall not rectify the register or remove the mark from the register for the sole reason that the registered proprietor has not filed a counter-statement. In any case of doubt any party may apply to the Registrar for directions.

Procedure on receipt of application.

65. Any person other than the registered proprietor alleging interest in a registered trade mark in respect of which an application is made on a franked Form TM—No. 30 may apply to the Registrar on a franked Form TM—No. 31 for leave to intervene, stating thereon the nature of his interest, and the Registrar may refuse or grant such leave, after hearing (if so required) the parties concerned, upon such conditions and terms as he may deem fit. Before dealing in any way with the application for leave to intervene the Registrar may require the applicant to give an undertaking to pay such costs as in the circumstances he may award to any party.

Intervention by third parties.

66. An application to the Registrar under section 50(1) for the alteration of the register by correction, change, cancellation, or striking out goods, or for the entry of a disclaimer or memorandum, may be made by the registered proprietor of the trade mark or by such person as may satisfy the Registrar that he is entitled to act in the name of the registered proprietor. Such applications shall be made on a franked Form TM—No. 32, TM—No. 33, TM—No. 34, TM—No. 35, TM—No. 36, TM—No. 37 or TM—No. 38, as may be appropriate; but an application on Form TM—No. 35, or TM—No. 36, or TM—No. 38 shall be signed by the registered proprietor or other person entitled under this rule unless in exceptional circumstances the Registrar otherwise allows, or in the case of Form TM—No. 38 only it is signed by an agent expressly authorized for the purpose of such an application.

Application under section 50(1).

67. In the case of an application as in rule 66, the Registrar may require such evidence by statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made.

Evidence.

Advertisement of certain applications.

68. Where application is made, on franked Form TM—No. 37, to enter a disclaimer or memorandum relating to a trade mark, the Registrar, before deciding upon such application, shall advertise the application in the *Gazette* in order to enable any person desiring so to do to state, within one month of the advertisement, any reasons in writing against the making of the entry of the disclaimer or memorandum.

Certificate of validity to be noted.

69. Where the Court has certified as provided in section 75 with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar on a franked Form TM—No. 39 to add to the entry in the register a note that the certificate of validity has been granted in the course of the proceedings, which shall be named on the Form. An office copy of the certificate shall be sent with the request, and the Registrar shall so note in the register and publish the note in the *Gazette*.

Alteration of Registered Trade Mark (Section 51).

Application for alteration.

70. Where a person desires to apply under section 51 that his registered trade mark may be added to or altered, he shall make his application on a franked Form TM—No. 40 and shall furnish the Registrar with four copies of the mark as it will appear when so added to or altered.

Advertisement before decision.

71. The Registrar shall consider the application and shall, if it appears to him expedient, require the application to be advertised by the applicant in one issue of the *Gazette* before deciding it. Within two months from the date of such advertisement any person may give notice of opposition to the application on a franked Form TM—No. 41 accompanied by an unfranked duplicate of the notice, and may also send therewith a further statement of his objections in duplicate. The Registrar shall send the duplicate notice, and the duplicate of any further statement of objections, to the applicant, and the provisions of rules 24 to 31 and 34 shall apply *mutatis mutandis* to the further proceedings thereon. In any case of doubt any party may apply to the Registrar for directions.

Alteration and notification thereof.

72. If the Registrar decides to allow the application he shall add to or alter the mark in the register, and shall insert in the *Gazette* a notification that the mark has been altered. If the mark

so added to or altered has not been advertised under rule 71, the notification shall also contain a short statement of the nature of the addition or alteration and an intimation that the amended mark can be seen by the public at the Registry.

73. In connexion with an application to alter a registered trade mark the Registrar may at any time require the applicant to supply to the Government Printer a printing block satisfactory to the Registrar and suitable for advertising the mark with the addition or alteration as aforesaid, if in the opinion of the Registrar an advertisement describing the addition or alteration in words would not be likely to be understood by persons interested in the matter.

Advertisement illustration.

Classification (Sections 8 and 54).

74. (1) For the purposes of trade marks registrations dated before the commencement of the Ordinance goods are classified in the manner appearing in Schedule III, unless any specification has been converted to Schedule IV in accordance with rule 75.

Classification of goods. Schedule III.

(2) For the purposes of trade marks registrations dated on or after the date of the commencement of the Ordinance, and of registrations of registered users thereunder, and for the purposes of any registrations dated before the commencement of the Ordinance whereof the specifications have been converted in accordance with rule 75, goods are classified in the manner appearing in Schedule IV.

Schedule IV.

75. (1) Where the specification of a registered trade mark is founded on Schedule III the registered proprietor may apply to the Registrar on a franked Form TM—No. 42 for the conversion of that specification so that it may be founded on Schedule IV, whether with or without the striking out of goods therefrom, but so that the registration retains its original date, and he shall include in the application a request for the like conversion of the specification of the goods of any registered users under that registration.

Application by registered proprietor for conversion of specification.

(2) After receipt of such application the Registrar, in accordance with section 54(3), shall send to the registered proprietor a proposal showing the form which, in the Registrar's view, the amendment of the register should take.

(3) Two or more registrations of a trade mark in respect of goods falling within the same class of Schedule IV, having the same date of registration, may be amalgamated upon conversion in accordance with this rule.

Advertisement of proposed conversion. Opposition.

76. (1) The proposal for amendment under section 54(3) shall be advertised by the applicant in one issue of the *Gazette*. Notice of any opposition shall be given on a franked Form TM—No. 43 within two months from the date of the advertisement, and shall be accompanied by an unfranked duplicate of the notice and by a statement in duplicate showing how the proposed conversion would be contrary to section 54(2).

(2) The Registrar shall send the duplicate copies to the registered proprietor, who shall, within one month from the date of the Registrar's letter sending such duplicates, send to the Registrar a counter-statement setting out fully the grounds on which the opposition is contested. The counter-statement shall be accompanied by a duplicate, which the Registrar shall forthwith send to the opponent.

(3) The Registrar may then require or admit evidence directed to the questions in issue, and if so desired by either party he shall, before deciding the matter, give the parties an opportunity of being heard thereon.

Conversion of specification.

77. (1) When a proposal for the conversion of a specification in accordance with rule 75 has been advertised and has not been opposed, and the time for notice of opposition has expired, or having been opposed the opposition has been determined and a conversion allowed, the Registrar shall make all the entries in the register necessary to give effect to the conversion in accordance with the proposal as advertised, or the proposal as amended after opposition or appeal thereon, and shall enter in the register the date when such entries were made.

(2) For the purpose of determining the next renewal of a registration the specification of which has been so converted the expression "the expiration of the last registration" shall have regard to the same date as it had, in accordance with section 45, with regard to the registration before conversion.

Defensive Trade Marks (Sections 55 to 57).

78. An application for the registration of a defensive trade mark under section 55 shall be made, addressed and sent to the Registrar on a franked Form TM—No. 44, and shall be accompanied by a statement of case setting forth full particulars of the facts on which the applicant relies in support of his application, verified by a statutory declaration made by the applicant or some other person approved for the purpose by the Registrar. The applicant may send with this declaration, or subsequently, such other evidence as he may desire to furnish, whether after request made by the Registrar or otherwise, and the Registrar shall consider the whole of the evidence before deciding on the application. In all other respects, and where they are appropriate and it is not otherwise stated, these rules shall apply to such applications as they apply to applications for the registration of ordinary trade marks.

Application under section 55.

Registered Users (Sections 50(2) and 58 to 63).

79. An application to the Registrar for the registration under section 58 of a person as a registered user of a registered trade mark shall be made by that person and the registered proprietor on a franked Form TM—No. 45.

Application for entry of registered user.

80. The entry of a registered user in the register shall state the date on which it was made. In addition to the trade or business address of the registered user it may include an address for service, if an application by him on franked Form TM—No. 38 has been approved. A notification in writing of the registration of a registered user shall be sent to the registered proprietor of the trade mark, to the registered user, and to every other registered user whose name is entered in relation to the same registration of a trade mark, and shall be inserted in the *Gazette*.

Entry and notification.

81. An application by the registered proprietor of a trade mark for the variation of the registration of a registered user of that trade mark under paragraph (a) of section 60(1) shall be made on a franked Form TM—No. 46, and shall be accompanied by a statement of the grounds on which it is made, and, where the registered user in question consents, by the written consent of that registered user.

Application of registered proprietor to vary entry.

Application by registered proprietor or user to cancel entry.

82. An application by the registered proprietor or any registered user of a trade mark for the cancellation of the registration of a registered user of that trade mark under paragraph (b) of section 60(1) shall be made on a franked Form TM—No. 47, and shall be accompanied by a statement of the grounds on which it is made.

Application under section 60(1)(c) to cancel entry.

83. An application by any person for the cancellation of the registration of a registered user under paragraph (c) of section 60(1) shall be made on a franked Form TM—No. 48, and shall be accompanied by a statement of the grounds on which it is made.

Notification and intervention.

84. The Registrar shall notify in writing applications under rules 81, 82 and 83 to the registered proprietor and each registered user (not being the applicant) under the registration of the trade mark. Any person so notified who intends to intervene in the proceedings shall within two months of the receipt of such notification give notice to the Registrar on a franked Form TM—No. 49 to that effect and shall send therewith a statement of the grounds of his intervention. The Registrar shall thereupon send copies of such notice and statement to the other parties, so that the intervention may be known to the applicant, the registered proprietor, the registered user whose registration is in suit, and any other registered user who intervenes. Any such party may, within such time or times as the Registrar may appoint, leave evidence in support of his case, and the Registrar after giving the parties an opportunity of being heard may accept or refuse the application or accept it subject to any conditions, amendments, modifications or limitations he may think right to impose.

Application of registered user under section 50(2).

85. (1) Applications under section 50(2) shall be made on a franked Form TM—No. 32, or TM—No. 33, or TM—No. 34, or TM—No. 38, as may be appropriate, by a registered user of a trade mark, or by such person as may satisfy the Registrar that he is entitled to act in the name of a registered user; and the Registrar may require such evidence by statutory declaration or otherwise as he may think fit as to the circumstances in which the application is made.

(2) In case of the registration of a registered user for a period, in accordance with paragraph (d) of section 58(3), the Registrar shall cancel the entry of the registered user at the end of that period. Where some or all of the goods are struck out

from those in respect of which a trade mark is registered, the Registrar shall at the same time strike them out from those specifications of registered users of the trade mark in which they are comprised. The Registrar shall notify every cancellation or striking out under this paragraph to the registered users whose permitted use is affected thereby and the registered proprietor of the trade mark.

Discretionary Power (Section 74).

86. Before exercising adversely to any person any discretionary power given to the Registrar by the Ordinance, or these rules, the Registrar shall, if so required, hear him on the subject.

Hearing.

87. An application for a hearing shall be made within one month from the date of the notification by the Registrar of any objection to an application or the date of any other indication that he proposes to exercise a discretionary power.

Application for hearing.

88. Upon receiving the application the Registrar shall send by post to the person applying ten days' notice of a time when he may be heard. Within five days from the date when such notice would be delivered in the ordinary course of post the person applying shall notify the Registrar whether or not he intends to be heard on the subject.

Notice of hearing.

89. The decision of the Registrar in the exercise of any such discretionary power as aforesaid shall be notified to the person affected.

Notification of decision.

Power to Dispense with Evidence.

90. Where under these rules any person is required to do any act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar, or at the Registry, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do any such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, signature, declaration, document or evidence.

Dispensing with evidence.

Extension of Time.

Extension of time.

91. If in any particular case the Registrar is satisfied that the circumstances are such as to justify an extension of the time for doing any act or taking any proceeding under these rules, not being a time expressly provided in the Ordinance or prescribed by paragraph (2) of rule 45 or paragraph (2) of rule 49, he may extend the time for so doing upon such terms as he may direct, and shall give notice thereof to other interested parties. The extension may be granted though the time has expired for doing the act or taking the proceeding.

Excluded days.

92. Whenever the last day fixed by the Ordinance, or by these rules, for doing any act or thing at the Registry shall fall on a day when the Registry is closed for the transaction of business or on a Saturday, such day shall be an excluded day for the purposes of the Ordinance and these rules, and it shall be lawful to do the act or thing on the first day following such excluded day which is not an excluded day.

Fees.

Fees. Schedule I.

93. The fees to be paid in relation to trade marks shall be those prescribed in Schedule I.

Forms.

Forms. Schedule II.

94. The forms herein referred to are the forms contained in Schedule II and such forms shall be used in all cases to which they are applicable, and shall be modified as directed by the Registrar to meet other cases.

Documents.

Size, etc. of documents.

95. Subject to any other directions that may be given by the Registrar, all applications, notices, statements, representations, or other documents required by the Ordinance or by these rules to be left with or sent to the Registrar or the Registry shall be upon strong paper of a size of approximately 13 inches by 8 inches, and, except in the case of statutory declarations and affidavits, on one side only, and shall have on the left-hand part thereof a margin of not less than one inch and a half.

96. A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners or by any qualified partner stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorized to sign the document. A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorized to sign the document. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who appears to the Registrar to be duly qualified.

Signature of documents by partnerships, companies and associations.

97. All applications, notices, statements, representations, or other documents authorized or required by the Ordinance or these rules to be made, left or sent, with or to the Registrar, or at or to the Registry, or any other person may be sent through the post by a prepaid letter.

Service of documents.

98. Any document or drawing or other representation of a trade mark may be amended, and any irregularity in procedure which in the opinion of the Registrar may be excused without detriment to the interests of any person may be corrected, if the Registrar think fit, and on such terms as he may direct.

Amendment of documents.

Address.

99. Where any person is by the Ordinance or these rules bound to furnish the Registrar with an address, the address given shall in all cases be as full as possible, for the purpose of enabling any person easily to find the place of trade or business of the person whose address is given. The Registrar may require the address to include the name of the street, and the number in the street or name of the premises, if any.

Address.

100. (1) The Registrar may require an applicant, opponent or agent, or a registered proprietor or registered user of a trade mark, who does not reside or carry on business within the Colony to give an address for service within the Colony, and such address may be treated as the actual address of that person for all purposes connected with the matter in question.

Address for service.

(2) Any registered proprietor or registered user of a trade mark, or any person about to be registered as such may, if he so desires, give upon a franked Form TM—No. 38 an address for service for entry in the register, and such address may be entered by the Registrar.

(3) All applications on Form TM—No. 38 under this rule shall be signed by the applicant for registration or the registered proprietor or registered user, as the case may be, or by an agent expressly authorized by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

(4) In any case in which no address for service is entered in the register, the Registrar may treat the trade or business address of the registered proprietor or registered user as therein entered as his address for service for all purposes connected with the registration.

(5) Any written communication addressed to a party or person as aforesaid at an address given by him, or treated by the Registrar, as his address for service shall be deemed to be properly addressed.

(6) The Registrar, at any time that a doubt arises as to the continued availability of an address for service entered in the register, may request the person for whom it is entered, by letter addressed to his trade or business address in the register, to confirm the address for service, and if within three months of making such a request the Registrar receives no confirmation of that address, he may strike it off the register.

Alteration of address in register.

101. (1) A registered proprietor or registered user of a trade mark whose trade or business address is changed so that the entry in the register is rendered incorrect shall forthwith request the Registrar on a franked Form TM—No. 32 to make the appropriate alteration of the address in the register, and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(2) A registered proprietor or registered user of a trade mark whose address for service in the Colony entered in the register is changed, whether by discontinuance of the entered address or otherwise, so that the entry in the register is rendered incorrect, shall forthwith request the Registrar on a franked Form TM—No. 38 to make the appropriate alteration of the address in the register, and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(3) A registered proprietor or registered user of a trade mark whose registered trade or business address or address for service is altered by a public authority, so that the changed address designates the same premises as before, may make the aforesaid request to the Registrar on Form TM—No. 32 or TM—No. 38, as the case may be, without payment of fee and if he does so he shall leave therewith a certificate of the alteration given by the authority. If the Registrar is satisfied as to the facts of the case, he shall alter the register accordingly.

(4) In case of the alteration of the address of a person entered in the register as the address of service of more than one registered proprietor or registered user of trade marks, the Registrar may, on proof that the said address is the address of the applicant and if satisfied that it is just to do so, accept an application from the person on a franked or unfranked Form TM—No. 38 amended so as to suit the case for the appropriate alteration of the entries of his address as the address for service in the several registrations, particulars of which shall be given in the Form, and may alter the entries accordingly.

(5) All applications under this rule on Form TM—No. 38 shall be signed by the registered proprietor or the registered user, as the case may be, or by an agent expressly authorized by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

Agents.

102. (1) Except as otherwise required by these rules, any application, request or notice which is required or permitted by the Ordinance or these rules to be made or given to the Registrar, and all other communications between an applicant or a person making such a request or giving such a notice and the Registrar, and between the registered proprietor or the registered user of a trade mark and the Registrar or any other person, may be signed, made or given by or through an agent.

(2) Any such applicant, person making request or giving notice, proprietor, or registered user may appoint an agent to act for him in any proceeding or matter before or affecting the Registrar under the Ordinance and these rules by signing and sending to the Registrar an authority to that effect in the Form

TM—No. 50, or in such other written form as the Registrar may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing him, all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent, and all attendances upon the Registrar relating thereto may be made by or through such agent. In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(3) The Registrar shall not be bound to recognize as such agent any person who has been convicted criminally or struck off the roll kept under and in accordance with the provisions of the (Cap. 159). Legal Practitioners Ordinance and of any regulations made thereunder or (during the term of his suspension) any person who has been suspended from acting as an attorney, solicitor, or proctor.

Certificates.

Certificates by Registrar.

103. The Registrar may give a certificate, other than a certificate under section 17(3), as to any entry, matter or thing which he is authorized or required by the Ordinance or these rules to make or do, upon receipt of a request therefor on a franked Form TM—No. 51 from any person who, if the Registrar thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction. The Registrar shall include in the certificate a copy of any mark if he is furnished by the applicant with a copy thereof suitable for the purpose. Every certificate of registration so given shall have specified on the face thereof whether the same is to be used in legal proceedings or for the purpose of obtaining registration abroad or for purposes other than use in legal proceedings or obtaining registration abroad.

Certificate of mark registered without limitation of colour.

104. Where a mark is registered without limitation of colour the Registrar may grant a certificate of its registration, for the purpose of obtaining registration abroad, either in the colour in which it appears upon the register or in any other colour or colours; but in the last-mentioned case the certificate shall be marked "FOR USE IN OBTAINING REGISTRATION ABROAD ONLY".

105. Where a certificate of registration of a trade mark is desired for use in obtaining registration abroad, the Registrar shall include in the certificate a copy of the mark and may require the applicant for the certificate to furnish him with a copy of the mark suitable for the purpose and, if the applicant fails to do so, may refuse to issue the certificate. The Registrar may state in the certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom reference to any disclaimers appearing in the register; but in the last-mentioned case the certificate shall be marked "FOR USE IN OBTAINING REGISTRATION ABROAD ONLY".

Certificate for use in obtaining registration abroad.

Declarations.

106. (1) The statutory declarations required by the Ordinance, and these rules, or used in any proceedings thereunder, shall be made and subscribed as follows—

Manner in which, and person before whom declaration is to be taken.

- (a) in the Colony—before any justice of the peace, notary public or any commissioner or other officer authorized by law in the Colony to administer an oath for the purpose of any legal proceeding;
- (b) in any other part of Her Majesty's dominions—before any court, judge, justice of the peace, notary public, or any officer authorized by law to administer an oath there for the purpose of a legal proceeding;
- (c) if made out of Her Majesty's dominions—before a British Minister or person exercising the function of a British Minister, or a consul, vice-consul, or other person exercising the functions of a British consul, or a notary public, or before a judge or magistrate.

(2) A person signing the declaration by virtue of the provisions of rule 96 shall state thereon the capacity in which he makes the declaration.

107. Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorized by rule 106 to take a declaration in testimony that the declaration was made and subscribed before him, may be admitted by the Registrar without proof of the genuineness of the seal or signature or of the official character of the person or his authority to take the declaration.

Seal or signature of officer taking declaration to prove itself.

Search.

Search to ascertain whether trade mark resembling submitted mark is on record.

108. (1) Any person may request the Registrar, on franked Form TM—No. 2 to cause a search to be made in respect of specified goods classified in any one class of Schedule IV to ascertain whether any trade mark is on record at the date of the search which resembles a trade mark of which duplicate representations accompany the Form. The Registrar shall cause such a search to be made and the person making the request to be informed of the result thereof.

(2) Any person may, on presentation of a franked Form TM—No. 52, inspect or make a search in the register.

Applications and Appeals to the Court.

Application or appeal to Court. Right of defendant in action for infringement.

109. (1) When any person intends to apply to the Court such application shall be made to the Court by notice of motion.

(2) When any person intends to appeal to the Court such appeal shall be made by notice of motion within three months from the date of the decision appealed against.

(3) When the Registrar decides to refer an application to the Court, the applicant shall apply to the Court within three months from the date of the decision so to refer, and unless he so applies he shall be deemed to have abandoned the application.

(4) Where under subsection (6) of section 13 or subsection (8) of section 15 an applicant becomes entitled and intends to withdraw his application, he shall give notice of the intention in writing to the Registrar and to the other parties, if any, to the appeal within three months after the leave referred to in those subsections has been obtained.

(5) A defendant in an action for infringement may, in regard to any registered trade mark in issue, counterclaim for the rectification of the register and shall within the time limited for the delivery of the counterclaim serve the Registrar with the same, and the Registrar shall be entitled to take such part in the action as he may think fit without delivering a defence or other pleading.

(6) The times specified in paragraphs (2) and (3) may be extended by the Court or Registrar upon the application of any party interested and notwithstanding that the time so specified has expired.

(7) The Court appealed to may, on the application of either party or of its own motion, remove any application or appeal from Court to Chambers or *vice versa*, and may give such directions as to the scale upon which costs may be taxed as to the Court may seem proper.

110. Every application to the Court under the Ordinance whether by way of appeal or otherwise shall be served on the Registrar.

Application to be served on the Registrar.

Orders of the Court.

111. Where an order has been made by the Court in any case under the Ordinance, the person in whose favour such order has been made, or such one of them, if more than one, as the Registrar may direct, shall forthwith leave at the Registry an office copy of such order, together with a franked Form TM—No. 53 if required. The register may, if necessary, thereupon be rectified or altered by the Registrar.

Copy of Order of Court to be left at the Registry.

112. Whenever an order is made by the Court under the Ordinance the Registrar may, if he thinks that the order should be made public, cause it to be published in the *Gazette* by and at the expense of the person in whose favour the order has been made, or such one of them, if more than one, as the Registrar may direct.

Publication of Order of Court.

Days and Hours of Business.

113. The Registry shall be open to the public and the register shall be open to inspection, on application made on franked Form TM—No. 52, every week-day, except Saturday, between the hours of 9.30 a.m. and 4 p.m., and on Saturdays between the hours of 9.30 a.m. and 12 noon.

Days and hours.

SCHEDULE I
(Rule 93).
FEES

Fee No.	Matter or Proceeding	Amount		Form No. (Schedule II)
		\$	¢	
1.	On request for the Registrar's preliminary advice under section 73 and rule 8, for each trade mark submitted in respect of one class	5.00		TM—No. 1.
2.	For a search under rule 108(1) in respect of one class— Without application for the Registrar's advice under rule 8	20.00		TM—No. 2.
	With application for the Registrar's advice under rule 8	25.00		TM—No. 2.
3.	On application not otherwise charged to register a trade mark (section 13(1), and rule 9(1)) or a series of trade marks (section 26(1) and rule 14) for a specification of goods included in one class ..	25.00		TM—No. 3.
4.	On a request to the Registrar to state grounds of decision relating to an application to register a trade mark, and materials used (section 13(4) and rule 20)	25.00		TM—No. 5.
5.	On notice of opposition before the Registrar under section 15 and rule 23, for each application opposed, by opponent	50.00		TM—No. 6.
6.	On lodging a counter-statement in answer to a notice of opposition under section 15 and rule 24, for each application opposed, by the applicant; or in answer to an application under any of the sections 37, 48, 49 and 57, by the proprietor in respect of each trade mark; or in answer to a notice of opposition under section 51 or section 54, for each application or conversion opposed, by the proprietor	25.00		TM—No. 7.
7.	On the hearing of each opposition under section 15 and rule 30, by applicant and by opponent respectively; or on the hearing of an application under any of the sections 37, 48, 49 and 57, by applicant and by proprietor respectively; or on the hearing of an opposition under section 51 or section 54, by proprietor and by opponent respectively	50.00		TM—No. 8.
8.	For one registration of a trade mark not otherwise charged for a specification of goods included in one class	50.00		TM—No. 9.
8a.	For one registration of a series of trade marks under section 26(1) and rule 14, for a specification of goods included in one class— For the first mark	50.00		TM—No. 9.
	And for every other mark of the series	5.00		

Fee No.	Matter or Proceeding	Amount		Form No. (Schedule II)
		\$	¢	
8b.	For registration under sections 65 and 66 of a certification trade mark for a specification of goods included in one class	50.00		TM—No. 9.
8c.	For registration upon applications made at the same time of one certification trade mark, under sections 65 and 66, for specifications of goods not all included in one class— In respect of each class	50.00		TM—No. 9.
	Total fee in no case to exceed \$1,000 for any number of classes.			
8d.	For one registration under section 55 and rule 78, of a defensive trade mark for a specification of goods included in one class	70.00		TM—No. 9.
8e.	Upon each addition to the registered entry of a trade mark of a note that the mark is associated with a newly registered mark (sections 24 to 26 and rule 39)	2.00		TM—No. 9.
9.	On an application, under section 24(2) and rule 39 (2), to dissolve the association between registered trade marks	50.00		TM—No. 12.
10.	On application, under section 43 and rule 40 or 41, to register a subsequent proprietor in a case of assignment or transmission of a single trade mark— If made within six months from the date of acquisition of proprietorship or the coming into operation of these rules	50.00		TM—No. 13 or 14.
	If made after expiration of six months but within twelve months from the date of acquisition of proprietorship or the coming into operation of these rules	60.00		
	If made after expiration of twelve months from the date of acquisition of proprietorship or the coming into operation of these rules	70.00		
10a.	On application, under section 43 and rule 40 or 41, to register a subsequent proprietor of more than one trade mark standing in the same name, the devolution of title being the same in each case— If made within six months from the date of acquisition of proprietorship or the coming into operation of these rules— For the first mark	50.00		TM—No. 13 or 14.
	And for every other mark	3.00		
	If made after expiration of six months but within twelve months from the date of acquisition of proprietorship or the coming into operation of these rules— For the first mark	60.00		
	And for every other mark	3.00		
	If made after expiration of twelve months from the date of acquisition of proprietorship or of the coming into operation of these rules— For the first mark	70.00		
	And for every other mark	3.00		

Fee No.	Matter or Proceeding	Amount		Form No. (Schedule II)
		\$	¢	
11.	On application, under section 18(3) and rule 45(2), for extension of time for registering a corporation as subsequent proprietor of trade marks on one assignment—			
	Not exceeding two months	25.00		TM—No.16.
	Not exceeding four months	50.00		
	Not exceeding six months	70.00		
12.	On application for certificate of the Registrar, under section 41(5) and rule 48—			
	For the first mark proposed to be assigned ...	50.00		TM—No. 17.
	And for every other mark of the same proprietor included in that assignment	2.00		
13.	On application, under section 41(6) and rule 49(1), for directions by the Registrar for advertisement of assignment of trade marks in use, without goodwill—			
	For one mark assigned	25.00		TM—No. 18.
	And for every other mark assigned with the same devolution of title	2.00		
14.	On application, under section 41(6) and rule 49(2), for extension of time for applying for directions for advertisement of assignment of trade marks in use, without goodwill, in respect of one devolution of title—			
	Not exceeding one month	25.00		TM—No. 19.
	Not exceeding two months	50.00		
	Not exceeding three months	70.00		
15.	On application, under section 64 and rule 50, to register a certification trade mark for a specification of goods included in one class	25.00		TM—No. 20.
15a.	On application made at the same time under section 64 and rule 50 to register one certification trade mark for specifications of goods not all included in one class—			
	In respect of each class	25.00		TM—No. 20.
	Total fee in no case to exceed \$500 for any number of classes.			
16.	On notice of opposition under section 66(2) and rule 54(2), for each application opposed, by the opponent	50.00		TM—No. 22.
17.	On lodging a counter-statement in answer to a notice of opposition under section 66(2) and rule 54(2), for each application opposed, by the applicant	25.00		TM—No. 23.
18.	On the hearing of each opposition before the Registrar under section 66(2) and rule 54(2), by applicant and by opponent respectively	50.00		TM—No. 24.

Fee No.	Matter or Proceeding	Amount		Form No. (Schedule II)
		\$	¢	
19.	On request, under section 68(1) and rule 55, by the registered proprietor of a certification trade mark to permit alteration of the deposited regulations thereof—			
	For the regulations of one such registration ...	25.00		TM—No. 25.
	For the same or substantially the same regulations of each other registration proposed to be altered in the same way and included in the same request	2.00		
20.	On application, under section 68(2) and rule 56, to expunge or vary the registration of a certification trade mark or to vary the deposited regulations of a certification trade mark or of certification trade marks of the same registered proprietor where the regulations are substantially the same	70.00		TM—No. 26.
21.	For renewal, under section 45 and rule 57, of registration of a trade mark at expiration of last registration	50.00		TM—No. 27.
21a.	For renewal, under section 45 and rule 57, of registration of a series of trade marks (section 26(1)) at expiration of last registration—			
	For the first mark of the series	50.00		TM—No. 27.
	And for every other mark of the series	3.00		
21b.	For renewal, under section 45 and rule 57, of registrations of the same certification trade mark with the same date for goods in more than one class—			
	In respect of each class	50.00		TM—No. 27.
	Total fee in no case to exceed \$1,000 for any number of classes.			
22.	Additional fee under rule 59	25.00		TM—No. 28.
23.	Restoration fee under rule 60	50.00		TM—No. 29.
24.	On application, under section 37, 48, 49 or 57 and rule 63, for rectification of the register or removal of trade mark from the register	70.00		TM—No. 30.
25.	On application, under rule 65, for leave to intervene in proceedings under section 37, 48, 49 or 57 for rectification of the register or removal of trade mark from the register	50.00		TM—No. 31.
26.	For altering, under section 50 and rule 66, one or more entries of the trade or business address of a registered proprietor or a registered user of a trade mark where the address in each case is the same and is altered in the same way (unless exempted from fee under rule 101(3))—			
	For the first entry	10.00		TM—No. 32.
	And for every other entry	2.00		