REPUBLIC OF ZAMBIA

THE TRADE MARKS ACT

CHAPTER 401 OF THE LAWS OF ZAMBIA

CHAPTER 401 THE TRADE MARKS ACT

THE TRADE MARKS ACT

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An Act to make provision relating to the registration of trade marks and for other purposes incidental thereto.

[1*st April*, 1958]

PART I PRELIMINARYPART I

PRELIMINARY

1. This Act may be cited as the Trade Marks Act. Short title

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Interpretation
Cap. 400
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Cap. 400

2. (1) In this Act, unless the context otherwise requires-

"assignment" means assignment by act of the parties concerned;

"Convention" means the Union Convention of Paris, dated the 20th March, 1883, for the Protection of Industrial Property, revised at Brussels on the 14th December, 1900, at Washington on the 2nd June, 1911, at The Hague on the 6th November, 1925, and at London on the 2nd June, 1934, and any revision thereof to which the *(1)former Federation of Rhodesia and Nyasaland or the former Protectorate of Northern Rhodesia may have acceded or to which the **(2)Republic may accede in terms of section *seven* of the Patents Act;

*Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)
**Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

"convention country", in relation to any provision of this Act, means a country (including any colony, protectorate or territory subject to the authority or under the suzerainty of that country, or any territory over which a mandate or trusteeship is exercised) which has been declared to be a convention country in terms of section *seven* of the Patents Act;

"examiner" means an examiner appointed under section *five*;

"legal practitioner" means a person admitted or otherwise entitled to practise as a barrister and solicitor in terms of the Legal Practitioners Act;

"limitations" means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded in in any place within Zambia or as to use in relation to goods to be exported to any market outside Zambia;

"mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral or any combination thereof;

"patent agent" means a person who is registered as such in terms of subsection (1) of section *sixty-eight* of the Patents Act, and is by virtue of the provisions of that Act entitled to practise as a patent agent;

"permitted use" has the meaning assigned to it by subsection (1) of section *thirty-three*;

"register" means the register of trade marks kept under the provisions of this Act;

"register of trade mark agents" means the register of trade mark agents kept under subsection (1) of section *eighty-six*;

"registered trade mark" means a trade mark that is actually on the register;

"registered user" means a person who is for the time being registered as such under section *thirty-three*;

"Registrar" means the Registrar of Trade Marks appointed under section *five*;

"regulations" means regulations made under section *eighty-one*;

"trade mark" means, except in relation to a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to a certification trade mark, a mark registered or deemed to have been registered under section *forty-two*;

"trade mark agent" means a person who is-

(*a*) registered as a trade mark agent in terms of subsection (2) of section *eighty-six*; or

(*b*) a legal practitioner or patent agent entitled to practise as a trade

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(2) References in this Act to the use of a mark shall be construed as references to the use of a printed or other visual representation of the mark, and references therein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in physical or other relation to, goods.

(*As amended by No.* 2 *of* 1962, *G.N. No.* 186 *of* 1964 *and S.I. No.* 175 *of* 1965)

PART II ADMINISTRATIONPART II

ADMINISTRATION

Establishment of Trade Marks Office

3. There shall be established under the direction of the Minister an office to be called the Trade Marks Office.

Seal. Cap. 400

4. The seal of the Patent Office, kept in terms of the Patents Act, shall also be the seal of the Trade Marks Office, and impressions thereof made for the purposes of this Act shall be judicially noticed.

Appointment of officers

5. There shall be-

(*a*) a Registrar of Trade Marks who shall exercise the powers and perform the duties assigned to the Registrar by this Act and shall be responsible for its administration;

(*b*) one or more Deputy Registrars of Trade Marks who shall, subject to the control of the Registrar, have all the powers conferred by this Act on the Registrar;

(*c*) such examiners and other officers as may be necessary for carrying out the provisions of this Act.

Register of trade marks

6. (1) There shall be kept at the Trade Marks Office for the purposes of this Act the record called the register of trade marks wherein shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of all registered users, disclaimers, conditions, limitations and such other matters relating to registered trade marks as may be prescribed.

(2) The register shall be divided into four parts which shall be known as Part A, Part B, Part C and Part D respectively.

(3) All registers of trade marks established and kept under the Registration of Trade Marks Act, Chapter 207 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") shall, under arrangements made by the Registrar with the approval of the Minister, be incorporated with and form part of the register established under subsection (1).

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(4) Any trade mark which was registered under such legislation and was of force and effect thereunder immediately before the commencement of this Act and was of force and effect in the former Protectorate of Northern Rhodesia on the 24th October, 1964, shall continue of force and effect in Zambia for the unexpired portion of the period for which at that date it was of force and effect.

(5) Subject to the provisions of this Act, the register of trade marks shall, at all convenient times, be open to inspection by the public, and certified copies, sealed with the seal of the Patent Office, of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.

(6) No notice of any trust, whether expressed, implied or constructive, shall be entered in the register, and the Registrar shall not be affected by any such notice.

(*As amended by S.I. No.* 175 *of* 1965)

PART III EFFECT OF REGISTRATION AND THE ACTION FOR INFRINGEMENTPART III

EFFECT OF REGISTRATION AND THE ACTION FOR INFRINGEMENT

No action for infringement of unregistered trade mark

7. No person shall be entitled to institute any proceedings to prevent or to recover damages for the infringement of an unregistered trade mark, but nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.

Registration to be in respect of particular goods

8. A trade mark must be registered in respect of particular goods or classes of goods, and any question arising as to the class within which any goods fall shall be determined by the Registrar whose decision shall be final.

Right given by registration in Part A and infringement thereof

9. (1) Subject to the provisions of this section and of sections *twelve* and *thirteen*, the registration of a person in Part A 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 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-

(*a*) as being used as a trade mark; or

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(*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 referring-

(i) to some person having the right either as proprietor or as registered user to use the trade mark; or

(ii) to goods with which such a person as aforesaid is connected in the course of trade.

(2) The right to 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 a part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently 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 connection 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 trade marks that 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.

Right given by registration in Part B and infringement thereof

10. (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 *nine* shall have effect in like manner in relation to a trade mark registered in Part B of the register as they have effect in relation to a trade mark registered in Part A of the register.

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(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 *eleven*, no injunction, interdict or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the High Court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection 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.

Infringement by breach of certain restrictions

11. (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 authorises 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.

(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 connection in the course of trade between the proprietor or registered user and the goods, the removal or obliteration, whether wholly or partly, 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.

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Saving for vested rights

12. Nothing in this Act 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 subsection (2) of section *seventeen*.

Saving for use of name, address or description of goods

13. 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 *nine* or in paragraph (*b* of subsection (3) of section *forty-two*.

PART IV REGISTRABILITY AND VALIDITY OF REGISTRATIONPART IV

REGISTRABILITY AND VALIDITY OF REGISTRATION

Distinctiveness requisite for registration in Part A

14. (1) In order for a trade mark (other than a certification trade mark) to be registrable in Part A of the register, it must contain or consist of at least one of the following essential particulars:

(*a*) the name of a company, individual or firm, represented in a special or particular manner;

(*b*) the signature of the applicant for registration or some predecessor in his business;

(*c*) an invented word or invented words;

(*d*) a word or words having no direct reference to the character or quality of the goods and not being, according to its ordinary signification, a geographical name or a surname;

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(*e*) any other distinctive mark, but a name, signature or word or words, other than such as fall within the descriptions in the foregoing paragraphs (*a*), (*b*), (*c*) and (*d*), shall not be registrable under the provisions of this paragraph except upon evidence of its distinctiveness.

(2) For the purposes of this section, "distinctive" means adapted, in relation to the goods in respect of which a trade mark is registered or proposed to be registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) The Registrar, or the High Court in the event of an appeal from a decision of the Registrar, in determining whether a trade mark is adapted to distinguish as aforesaid, may have regard to the extent to which-

(*a*) the trade mark is inherently adapted to distinguish as aforesaid; and

(*b*) by reason of the use of the trade mark or of any other circumstances, the trade mark is, in fact, adapted to distinguish as aforesaid.

(4) An appeal shall lie from any decision of the Registrar under this section.

(*As amended by Act No.* 17 *of* 1980)

Capability of distinguishing requisite for registration in Part B

15. (1) In order for a trade mark to be registrable in Part B of the register, it must be capable, in relation to the goods in respect of which it is registered or proposed to be registered, of distinguishing goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(2) In determining whether a trade mark is capable of distinguishing as aforesaid, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may have regard to the extent to which-

(*a*) the trade mark is inherently capable of distinguishing as aforesaid; and

(*b*) by reason of the use of the trade mark or of any other circumstances, the trade mark is, in fact, capable of distinguishing as aforesaid.

(3) A trade mark may be registered in Part B notwithstanding any registration in Part A in the name of the same proprietor of the same trade mark or any part or parts thereof.

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(4) An appeal shall lie from any decision of the Registrar under this section.

(*As amended by Act No.* 17 *of* 1980)

Prohibition of registration of deceptive, etc., matter

16. It shall not be lawful to register as a trade mark or part of a trade mark any matter the use of which would, by reason of its being likely to deceive or cause confusion or otherwise, be disentitled to protection in a court of justice or would be contrary to law or morality, or any scandalous design.

Prohibition of registration of identical and resembling trade marks

17. (1) Subject to the provisions of subsection (2), 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.

(2) In the case of honest current use or other special circumstances which, in the opinion of the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, make it proper so to do, the Registrar or the High Court as the case may be, 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 Registrar or the High Court may think it right to impose.

(3) 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 Tribunal or have been settled by agreement in a manner approved by him or on an appeal by the Tribunal.

(*As amended by Act No.* 17 *of* 1980)

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

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

(*a*) that registration was obtained by fraud; or

(*b*) the trade mark offends against the provisions of section *sixteen*.

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

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Registration subject to disclaimer

19. If a trade mark-

(*a*) contains any part not separately registered by the proprietor as a trade mark; or

(*b*) contains matter common to the trade or otherwise of a non-distinctive character;

the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, in deciding whether the trade mark shall be entered or shall remain on the register, may require as a condition of its being on the register-

(i) that the proprietor shall disclaim any right to the exclusive use of any part of the trade mark or to the exclusive use of all or any portion of such trade mark as aforesaid, to the exclusive use of which the Registrar or the High Court holds him not to be entitled; or

(ii) that the proprietor shall make such other disclaimer as the Registrar or the High Court may consider necessary for the purposes of defining his rights under the registrations:

Provided that no disclaimer on 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.

(*As amended by Act No.* 17 *of* 1980)

Words used as name or description of an article or substance

20. (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:

Provided that, if it is proved either-

(i) 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

(ii) 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 (i) or (ii) of the proviso to subsection (1) are proved with respect to any word or words, then-

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(*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 *thirty-seven*, to be an entry wrongly remaining on the register;

(*b*) if the trade mark contains that word or those words and other matter, the Registrar, or the High Court in the event of an appeal from a decision of 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 on 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 trade 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 (i) of the proviso to subsection (1) first became well known and established or at the expiration of the period of two years mentioned in paragraph (ii) of that proviso.

(3) No word which is the commonly used and accepted name of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration in force at the commencement of this Act or thereafter shall, notwithstanding anything in section *eighteen*, be deemed, for the purposes of section *thirty-seven*, to be an entry made in the register without sufficient cause, or an entry wrongly remaining on the register, as the circumstances may require:

Provided that the foregoing provisions of this subsection shall not have effect in relation to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to public use.

(*As amended by Act No.* 17 *of* 1980)

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Effect of limitation as to colour and of absence thereof

21. (1) A trade mark may be limited in whole or in part to one or more specified colours, and in any such case the fact that it is so limited shall be taken into consideration by the Registrar, or by the High Court in the event of an appeal from a decision of the Registrar, in deciding on the distinctive character of the trade mark.

(2) If and so far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

(*As amended by Act No.* 17 *of* 1980)

PART V PROCEDURE FOR, AND DURATION OF, REGISTRATIONPART V

PROCEDURE FOR, AND DURATION OF, REGISTRATION

Application for registration

22. (1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Registrar in the prescribed manner for registration either in Part A or in Part B of the register.

(2) A proprietor of a trade mark who immediately prior to the commencement of this Act owned a trade mark registered in respect of the same classification of goods in Southern Rhodesia, Nyasaland and the former Protectorate of Northern Rhodesia may, on application made in writing in the prescribed manner within twelve months of such date and without further compliance with the provisions of this Part, obtain registration of such mark in respect of such goods under the provisions of this Act, which shall be dated with the date of the trade mark first registered in any such territory and shall expire on the date on which it would expire under the provisions of the law relating to trade marks of the territory in which it was last registered.

(3) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think right.

(4) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B and deal with the application accordingly.

(5) In the case of a refusal or conditional acceptance, the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat, and the decision of the Registrar shall be subject to appeal.

(6) An appeal under this section shall be heard in accordance with the provisions of Part XI.

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(7) Appeals under this section shall be heard on the materials stated as aforesaid by the Registrar, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Registrar, other than those so stated as aforesaid by him, except by leave of the High 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.

(8) The Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may at any time, whether before or after acceptance, correct any error in or in connection with the application or may permit the applicant to amend his application upon such terms as the Registrar or the High Court may think right.

(*As amended by S.I. No.* 175 *of* 1965
and Act No. 17 *of* 1980)

Opposition to registration and appeals

23. (1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the applicant shall, as soon as may be after acceptance, advertise the application as accepted in the prescribed manner, and the advertisement shall set forth all conditions and limitations subject to which the application has been accepted:

Provided that the Registrar may direct that an application shall be advertised before acceptance if it is made under paragraph (*e*) of subsection (1) of section *fourteen*, or 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, direct that it shall be advertised again when it has been accepted, but shall not be bound so to do.

(2) 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.

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

(4) The Registrar shall send a copy of the notice to the applicant and, within the prescribed time after 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.

(5) If the applicant sends such a counter-statement as aforesaid, the Registrar shall furnish a copy thereof to the persons 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.

(6) An appeal shall lie from any decision of the Registrar under this section.

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(7) An appeal under this section shall be made in the prescribed form and manner, and on the appeal the High 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.

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

(9) 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 so stated as aforesaid by the opponent, except by leave of the High 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.

(10) On an appeal under this section, the High 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.

(*As amended by Act No.* 17 *of* 1980)

Registration

24. (1) When an application for registration of a trade mark has been accepted, and either-

(*a*) the application has not been opposed and the time for notice of opposition has expired; or

(*b*) the application has been opposed and the opposition has been decided in favour of the applicant;

the Registrar shall, unless the application has been accepted in error or unless the High Court otherwise directs, register the trade mark, and the trade mark, when registered, shall be registered as of the date of the application for registration, and that date shall be deemed, for the purposes of this Act, to be the date of registration:

Provided that the foregoing provisions of this subsection, relating to the date as of which a trade mark shall be registered and to the date to be deemed to be the date of registration, shall, as respects a trade mark registered under this Act with the benefit of any enactment relating to international arrangements, have effect subject to the provisions of that enactment.

(2) On the registration of a trade mark, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Patent Office.

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(3) 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 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.

(*As amended by Act No.* 17 *of* 1980)

Duration and renewal of registration

25. (1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section.

(2) 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 the trade mark for a period of fourteen years from the date of expiration of the original registration or of the last renewal of registration, which date is in this section referred to as "the expiration of the last registration".

(3) 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 of expiration 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 the trade mark from the register, subject to such conditions, if any, as to its restoration to the register as may be prescribed.

(4) The Registrar shall remove from the register any trade mark which immediately before the commencement of this Act was registered in terms of any law relating to trade marks and which, according to the law of the registering country, as defined by any such law, ceased to be a valid registration.

(5) 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 the registration of a trade mark during one year next after the date of the removal, be deemed to be a trade mark that is already on the register:

Provided that the foregoing provisions of this subsection shall not have effect where the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, is satisfied either-

(i) that there has been no *bona fide* trade use of the trade mark that has been removed during the three years immediately preceding its removal; or

(ii) 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.

(*As amended by Act No.* 17 *of* 1980)

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Registration of parts of trade marks and of trade marks as a series

26. (1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and any such part as separate trade marks. Each separate trade mark must satisfy all the conditions of an independent trade mark and shall, subject to the provisions of subsection (3) of section *twenty-eight* and subsection (2) of section *thirty-five*, have all the incidents of an independent trade mark.

(2) Where a person claiming to be the proprietor of several trade marks, in respect of the same goods or description of goods, which, while resembling each other in the material particulars thereof, yet 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 those trade marks, they may be registered as a series in one registration.

PART VI ASSIGNMENT AND TRANSMISSIONPART VI

ASSIGNMENT AND TRANSMISSION

Powers of, and restrictions on, assignment and transmission

27. (1) Notwithstanding any rule or law to the contrary, a registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible either in connection 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.

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(4) Notwithstanding anything in subsections (1) to (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 Zambia (otherwise than for export therefrom) or in relation to goods to be exported to the same market outside Zambia.

(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 *thirty* of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

(6) Notwithstanding anything in subsections (1) to (3), a trade mark shall not, on or after the commencement of this Act, be assignable or transmissible in a case in which as a result of an assignment or transmission thereof there would in the circumstances subsist, whether under the common law or by registration, an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold or otherwise traded in in a place or places in Zambia and an exclusive right in another of those persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold or otherwise traded in in another place or other places in Zambia:

Provided that on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or of a person who claims that a trade mark has been transmitted to him or to a predecessor in title of his on or after the commencement of this Act, in any such case, the Registrar, if he is satisfied that in all the circumstances the use of the trade marks in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission, and an assignment or transmission so approved shall not be deemed to be, or to have been, invalid under this subsection or under subsection (4), so, however, that in the case of a registered trade mark this provision shall not have effect unless application for the registration under section *thirty* of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

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(7) 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 Act, otherwise than in connection 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.

(8) An appeal shall lie from any decision of the Registrar under this section.

(*As amended by G.N. No.* 186 *of* 1964)

Certain trade marks to be associated so as to be assignable and transmissible as a whole only

28. (1) Trade marks that are registered as, or that are deemed by virtue of this Act 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.

(2) Where a trade mark that is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark that 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.

(3) Where a trade mark and any part or parts thereof are, by virtue of subsection (1) of section *twenty-six*, 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.

(4) All trade marks that are, by virtue of subsection (2) of section *twenty-six*, registered as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(5) 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 may amend the register accordingly.

(6) An appeal shall lie from any decision of the Registrar under this section.

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Power of registered proprietor to assign and give receipts

29. Subject to the provisions of this Act, 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 thereof.

Registration of assignments and transmissions

30. (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 the 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) An appeal shall lie from any decision of the Registrar under this section.

(3) Except for the purposes of an appeal under this section or of an application under section *thirty-seven*, 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.

PART VII USE AND NON-USEPART VII

USE AND NON-USE

Removal from register and imposition of limitation

31. (1) Subject to the provisions of section *thirty-two*, 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 High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, on the ground either-

(*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 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:

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Provided that (except where the applicant has been permitted under subsection (2) of section *seventeen* to register an identical or nearly resembling trade mark in respect of the goods in question or where the High Court or the Registrar, as the case may be, is of opinion that he might properly be permitted so to register such a trade mark), the High Court or the Registrar 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 trade mark is registered-

(*a*) the matters referred to in paragraph (*b*) of subsection (1) are shown so far as regards non-use of the trade mark in relation to goods to be sold or otherwise traded in in a particular place in Zambia (otherwise than for export from Zambia) or in relation to goods to be exported to a particular market outside Zambia; and

(*b*) a person has been permitted under subsection (2) of section *seventeen* 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 that place (otherwise than for export from Zambia) or in relation to goods to be exported to that market or the High Court or the Registrar is of opinion that he might properly be permitted so to register such a trade mark;

on application by that person to the High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, the High Court or the Registrar may impose on the registration of the first-mentioned trade mark such limitations as the High Court or the Registrar 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 that 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.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

Defensive registration of well-known trade marks

32. (1) Where a trade mark registered in Part A of the register has become so well known as respects any goods in respect of which it has been used that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then, notwithstanding that the proprietor registered in respect of the first-mentioned goods does not use or propose to use that trade mark in relation to those other goods and notwithstanding anything in section *thirty-one*, the trade mark may, on the application in writing in the prescribed manner of the proprietor registered in respect of the first-mentioned goods, be registered in Part D of the register 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 goods under section *thirty-one*.

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(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) 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.

(4) On application by any person aggrieved to the High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, 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) 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 be taken as giving the indication mentioned in subsection (1).

(5) 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.

(6) Except as otherwise expressly provided in this section, the provisions of this Act 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, and the provisions of section *nine* relating to the infringement of a trade mark registered in Part A of the register shall apply to the infringement of any defensive trade mark registered in terms of this section if that registration is valid.

(*As amended by Act No.* 17 *of* 1980)

Registered users

33. (1) Subject to the provisions of this section, a person other than the proprietor of a trade mark registered in either Part A or Part B of the register 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 certification or defensive trade mark) and either with or without conditions or restrictions. 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 Act referred to as the "permitted use" thereof.

(2) 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 *thirty-one* and for any other purpose for which such use is material under this Act or at common law.

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

(4) 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 an affidavit or a solemn declaration made by the proprietor or by some person authorised 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 regulations or by the Registrar.

(5) When the requirements of subsection (4) 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.

(6) The Registrar shall refuse an application under the foregoing provisions of this section if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

(7) The Registrar shall, if so required by an applicant, take steps for securing that information given for the purposes of an application under the foregoing provisions of this section (other than matter entered in the register) is not disclosed to rivals in trade.

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(8) Without prejudice to the provisions of section *thirty-seven*, 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.

(9) Provision shall be made by regulations 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 subsection (8) 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 regulations, an opportunity of being heard.

(10) 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.

(11) An appeal shall lie from any decision of the Registrar under this section.

(12) 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 Act, subsection (2) shall have effect in relation to any previous use in the former Protectorate of Northern Rhodesia (whether before or after the commencement of this Act) 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.

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(13) Nothing in this section shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

(*As amended by S.I. No.* 175 *of* 1965)

Proposed use of trade mark by corporation to be constituted, etc.

34. (1) No application for the registration of a trade mark in respect of any goods shall 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-

(*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 provisions of section *thirty-one* shall have effect in relation to a trade mark registered under the power conferred by subsection (1) as if for the reference in paragraph (*a*) of subsection (1) of section *thirty-one* to intention on the part of an applicant for registration that a trade mark should be used by him, there were substituted a reference to intention on his part that it should be used by the corporation or registered user concerned.

(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.

(4) An appeal shall lie from any decision of the Registrar under this section.

Use of one of associated or substantially identical trade marks equivalent to use of another

35. (1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may, if and so far as the Registrar or the High Court 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.

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(2) The use of the whole of a registered trade mark shall, for the purposes of this Act, be deemed to be also a 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 *twenty-six*.

(*As amended by Act No.* 17 *of* 1980)

Use of trade mark for export trade

36. The application in Zambia of a trade mark to goods to be exported from Zambia and any other act done in Zambia in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in in Zambia, 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 Act or at common law.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

PART VIII RECTIFICATION AND CORRECTION OF THE REGISTERPART VIII

RECTIFICATION AND CORRECTION OF THE REGISTER

General power to rectify entries in register

37. (1) 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 High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, and the High Court or the Registrar may make such order for making, expunging or varying the entry as the High Court or the Registrar may think fit.

(2) The High Court or the Registrar may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.

(3) In case of fraud in the registration, assignment or transmission of a registered trade mark, the Registrar may himself apply to the High Court under the provisions of this section.

(4) Any order of the High 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.

(5) 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.

(*As amended by Act No.* 17 *of* 1980)

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Power to expunge or vary registration for breach of condition

38. On application by any person aggrieved to the Tribunal or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar or on application by the Registrar to the High Court, the High Court, or the Registrar may make such order as the High Court or the Registrar 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.

(*As amended by Act No.* 17 *of* 1980)

Correction of register

39. (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;

(*b*) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;

(*c*) cancel the entry of a trade mark on the register;

(*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 the 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) An appeal shall lie from any decision of the Registrar under this section.

Alteration of registered trade mark

40. (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 leave or may grant it on such terms and subject to such limitations as he may think fit.

(2) The Registrar may direct that an application under this section shall 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.

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(3) An appeal shall lie from any decision of the Registrar under this section.

(4) Where leave as aforesaid is granted, the trade mark as altered shall be advertised by the proprietor 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).

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

41. (1) The Minister may from time to time make such regulations, prescribe such forms and generally do such things as may be 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 ante-dating 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 ante-dating, 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 that trade mark affected, shall be subject to appeal by the registered proprietor to the High Court shall be advertised by the proprietor 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), and an appeal shall lie from any decision of the Registrar on any such opposition.

(*As amended by Act No.* 17 *of* 1980)

PART IX CERTIFICATION TRADE MARKSPART IX

CERTIFICATION TRADE MARKS

Certification trade marks

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

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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 Registrar, or the High Court in the event of an appeal from a decision of the Registrar, 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.

(3) Subject to the provisions of subsections (4) to (6) and of sections *twelve* and *thirteen*, 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 authorised 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 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 authorisation under the relevant regulations to use the trade mark or to goods certified by the proprietor.

(4) 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.

(5) 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-

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(*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 authorisation 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*) 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.

(6) Where a certification trade mark is one of two or more registered trade marks that 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.

(7) There shall be deposited at the Trade Marks Office in respect of every trade mark registered under this section regulations approved by the Registrar for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise 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 authorise the use of the trade mark in accordance with the regulations). Regulations so deposited shall be open to inspection in like manner as the register.

(8) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Registrar.

(9) The provisions of the Schedule shall have effect with respect to the registration of a mark under this section and to marks so registered.

(10) In this section, "person" includes the Minister responsible for the administration of any Ministry or Government department which has been authorised or established to certify goods in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic.

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(11) Marks which, immediately before the commencement of this Act, were registered under the Registration of Trade Marks Act, Chapter 207 of the 1957 Edition of the Laws, as certification trade marks shall be deemed to be registered as certification trade marks in Part C of the register.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

PART X FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERSPART X

FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS

Preliminary advice by Registrar as to distinctiveness

43. (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 Act.

(2) Any such person who is desirous of obtaining such advice must make application to the Registrar therefor in the prescribed manner.

(3) If on 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 on the lodging of the application.

Hearing before exercise of Registrar's discretion

44. Where any discretionary or other power is given to the Registrar by this Act or the regulations, 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.

Evidence of certain entries and documents

45. (1) A certificate purporting to be signed by the Registrar and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be *prima facie* evidence of the matters so certified.

(2) A copy of any entry in any register or of any document kept in the Trade Marks Office or of any trade mark or an extract from any such register or document, certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence without further proof and without production of the original.

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Requests for information as to trade mark

46. The Registrar shall, on the request of any person and on payment of the prescribed fee, furnish copies of any documents which are open to public inspection and which are lodged at the Trade Marks Office or particulars from the register or furnish a certificate in respect thereof.

Power of Registrar to award costs

47. In all proceedings before the Registrar under this Act, the Registrar 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 costs so awarded shall be taxed by the High Court and payment thereof may be enforced in the same manner as if they were costs allowed by the High Court.

(*As amended by Act No.* 17 *of* 1980)

Proceedings before Registrar

48. (1) Subject to the provisions of section *seventy-nine*, evidence in any proceedings before the Registrar under this Act shall be given by affidavit, so, however, that the Registrar may, if he thinks fit in any particular case, take oral evidence on oath in lieu of or in addition to such evidence as aforesaid and may allow any witness to be cross-examined on his affidavit or oral evidence.

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(2) The powers, rights and privileges of the Registrar in proceedings before him under this Act shall be the same as those conferred upon commissioners by the Inquiries Act and the provisions of that Act shall, *mutatis mutandis*, apply in relation to the hearing and determination of any matter before the Registrar under this Act and to any person summoned to give evidence or giving evidence before him.

(*As amended by G.N. No.* 186 *of* 1964)

Power of Registrar to fix time and place of sitting, etc.

49. The Registrar may in any proceeding held before him decide the hours, times and places at which he will sit and he may adjourn any proceedings for such time and to such place as he may think fit.

Advertisements to be approved by Registrar

50. No advertisement or notice, other than a notice issued under the authority of the President or the Minister, shall be published by any person under the provisions of this Act unless it is in the prescribed form and the Registrar has approved the contents of such advertisement or notice, and no advertisement or notice which hasnot been so approved shall have any force or effect for the purposes of this Act.

(*As amended by G.N. No.* 186 *of* 1964)

PART XI APPEALS AND LEGAL PROCEEDINGSPART XI

APPEALS AND LEGAL PROCEEDINGS

High Court to hear appeals

51. (1) Where this Act provides for an appeal from a decision of the Registrar, such appeal shall be made to the High Court.

(*As amended by Act No.* 17 *of* 1980)

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52. *Repealed by Act No.* 17 *of* 1980.

Rules

53. The Minister may, by statutory instrument, make rules for regulating generally the practice and procedure of the Tribunal and with respect to appeals or references to such Tribunal as to the time within which any requirement of the rules is to be complied with, as to the costs and expenses of and incidental to any proceedings in such Tribunal, as to the fees to be charged in respect of proceedings therein, as to the fees to be paid to assessors, and in particular may make rules providing for the summary determination of any appeal which appears to the Tribunal to be frivolous or vexatious or to be brought for the purpose of delay.

(*As amended by Act No.* 17 *of* 1980)

54. *Repealed by Act No.* 17 *of* 1980.

Time for appeals

55. Appeals under this Part, whether from decisions of the Registrar, or orders or decisions of the High Court, shall be brought within three months after the date of the decision or order in question or within such further time as the High Court or Supreme Court may allow upon application by the appellant concerned.

(*As amended by Act No.* 17 *of* 1980)

References to High Court by Registrar

56. When any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall thereafter, in relation to such matter, act in accordance with the decision of the High Court or any decision substituted therefor on appeal to the Supreme Court.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

Registration to be *prima facie* evidence of validity

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

Certification of validity

58. 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 registrar or High 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 registrar or High Court certifies that he ought not to have them.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

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Infringement or passing off action to be heard in High Court

59. Any action or legal proceeding relating to the infringement or passing off of a trade mark shall be brought in the High Court.

(*As amended by G.N. No.* 186 *of* 1964)

Trade usage, etc., to be considered

60. In any action or proceeding relating to a trade mark or trade name, the High Court or the Registrar, as the case may be, 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.

(*As amended by Act No.* 17 *of* 1980)

Registrar's appearance in proceedings involving rectification

61. (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 High Court.

(2) Unless otherwise directed by the High Court, the Registrar, in lieu of appearing and being heard, may submit to the High 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 the Trade Marks 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.

(*As amended by Act No.* 17 of 1980)

62. *Repealed by Act No.* 17 *of* 1980.

63. *Repealed by Act No.* 17 *of* 1980.

Procedure in cases of option to apply to High Court or Registrar

64. Where under any of the foregoing provisions of this Act an applicant has an option to make an application either to the High Court or to the Registrar and such application is made to the Registrar, the Registrar may, at any stage of the proceedings, refer the application to the High Court or may, after hearing the parties, determine the question between them, subject to appeal to the High Court.

(*As amended by Act No.* 17 *of* 1980)

Security for costs and taxation of costs

65. (1) When a party to proceedings before the Registrar is resident outside Zambia, the Registrar may order such party to give security, within such time as may be directed, for the costs of the proceedings.

(2) If the party or appellant ordered to give security for costs fails to do so within the time directed, the Registrar may treat the proceedings as abandoned.

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(3) Where a bond is to be given as security for costs, it shall, unless the Registrar otherwise directs, be given to the party requiring the security.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

Costs of Registrar

66. In all proceedings before the High Court under this Act, the costs of the Registrar shall be in the discretion of the High Court, but the Registrar shall not be ordered to pay the costs of any other of the parties.

(*As amended by Act No.* 17 *of* 1980)

Appeals to Supreme Court

67. Any party to any proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of the High Court to the Supreme Court.

(*As amended by Act No.* 17 *of* 1980)

PART XII OFFENCES AND PENALTIESPART XII

OFFENCES AND PENALTIES

Falsification of entries in register

68. Any person who 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 who produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, shall be guilty of an offence.

Penalty for falsely representing a trade mark as registered

69. (1) Any person who makes a representation-

(*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 guilty of an offence and liable to a fine of one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to both.

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(2) For the purposes of this section, the use in Zambia in relation to a trade mark of the word "registered" or of any other 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 Zambia, 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 Zambia and in relation to goods to be exported to that country.

(*As amended by G.N. No.* 186 *of* 1964 *and Act No.* 13 *of* 1994)

Deceiving or influencing the Registrar or an officer

70. (1) Any person who-

(*a*) for the purpose of deceiving the Registrar or any other officer of the Trade Marks Office in the execution of the provisions of this Act; or

(*b*) for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder;

makes or submits a false statement or representation, whether orally or in writing, knowing the same to be false, shall be guilty of an offence.

(2) Any person who, having innocently made a false statement or representation, whether orally or in writing, for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder and who on becoming aware that such statement or representation was false, fails to advise the Registrar forthwith of such falsity shall be guilty of an offence.

(*No.* 37 *of* 1960)

Witness giving false evidence

71. Any person who, after having been sworn, wilfully gives false evidence before the Registrar concerning the subject-matter of the proceeding in question, knowing such evidence to be false or not knowing or believing it to be true shall be guilty of an offence.

(*As amended by Act No.* 17 *of* 1980)

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Penalties

72. Save where otherwise provided in this Act, any person who is guilty of an offence under this Act shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding three years, or to both.

(*As amended by Act No.* 13 *of* 1994)

PART XIII MISCELLANEOUSPART XIII

MISCELLANEOUS

Convention arrangements

73. (1) Any person who qualifies under Article 2 or 3 of the Convention and who has applied for protection for any trade mark in a convention country or his legal representative or assignee (if such assignee is also so qualified) shall be entitled to registration of his trade mark in priority to other applicants; and the registration shall have the same date as the date of the application in the convention country:

Provided that-

(i) the application for registration is made within six months from the date of the application for protection in the convention country;

(ii) nothing in this section shall entitle the proprietor of a trade mark to recover damages for infringements happening prior to the actual date on which his trade mark is registered in Zambia.

(2) Where applications have been made for the registration of a trade mark in two or more convention countries, the period of six months referred to in subsection (1) shall be reckoned from the date on which the earlier or earliest of those applications was made.

(3) The application for the registration of a trade mark under this section must be made in the same manner as is required in the case of any ordinary application under this Act.

(*As amended by G.N. No.* 186 *of* 1964)

Change of form of trade connection not to be deemed to cause deception

74. The use of a registered trade mark in relation to goods between which and the person using it any form of connection 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 connection in the course of trade subsisted or subsists.

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Jointly owned trade marks

75. 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 Act 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 Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

Lodging and authentication of documents

76. (1) Any application, notice or document authorised or required under this Act to be lodged, made or given at the Trade Marks Office or to the Registrar or to any other person may be delivered by hand or sent by registered post.

(2) No authentication shall be required in respect of any document lodged in the Trade Marks Office under the provisions of this Act.

(*As amended by Act No.* 17 *of* 1980)

Expenses of administration

77. All moneys necessary for the purpose of this Act shall be paid out of moneys appropriated for the purpose by Parliament.

(*As amended by G.N. No.* 186 *of* 1964 *and S.I. No.* 175 *of* 1965)

Provisions as to fees

78. (1) Where under the provisions of this Act-

(*a*) a fee is payable in respect of the performance of any act by the Registrar, the Registrar shall not perform that act until the fee has been paid;

(*b*) a fee is payable in respect of the doing of any act by any person other than the Registrar, the act shall be deemed not to have been done until the fee has been paid; or

(*c*) a fee is payable in respect of the lodging of a document, the document shall be deemed not to have been lodged until the fee has been paid.

(2) All fees shall be paid at the Trade Marks Office in such manner as the Registrar, with the approval of the Minister, may accept.

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Oaths and affirmations

79. Any person who is required under the provisions of this Act to take any oath or swear to the truth of any affidavit may, in lieu thereof, make an affirmation or declaration in accordance with the law relating to affirmations or declarations in Zambia.

(*As amended by G.N. No.* 186 *of* 1964)

Trade Marks Journal

80. (1) The Minister may, when he deems fit, direct the publication by the Registrar of a journal, to be referred to as the Trade Marks Journal, containing particulars of applications for the registration of trade marks and other proceedings or matters arising under the provisions of this Act, together with such reports of cases and other relevant matters as the Minister may deem fit.

(2) The Registrar shall make provision for selling copies of the Trade Marks Journal at such price and in such manner as the Minister may direct.

Regulations

81. (1) The Minister may, by statutory instrument, make regulations prescribing anything which under this Act is to be prescribed and generally for the better carrying out of the objects and purposes of this Act or to give force or effect to its provisions or for its better administration.

(2) Without derogation from the generality of the provisions of subsection (1), regulations made by the Minister may provide-

(*a*) for regulating the practice under this Act, including the service of documents;

(*b*) for classifying goods for the purposes of registration of trade marks;

(*c*) for prohibiting the registration of any mark on the grounds of morality, public policy or for other good and sufficient reason;

(*d*) for making or requiring duplicate representations of trade marks and other documents;

(*e*) for securing and regulating the publishing and selling or distributing, in such manner as he thinks fit, of copies of trade marks and other documents;

(*f*) for the fees which may be charged in relation to the conduct of trade mark business by trade mark agents;

(*g*) for the professional conduct of trade mark agents;

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(*h*) generally for regulating the business of the Trade Marks Office in relation to trade marks and all things by this Act placed under the direction or control of the Registrar.

(3) The Minister may also prescribe a tariff, not inconsistent with this Act, of the fees which shall be payable in respect of any application, registration and other matters under this Act and the fees shall be payable as so prescribed.

(*As amended by No.* 37 *of* 1960
and No. 2 *of* 1962)

PART XIV APPLICATION AND TRANSITIONAL PROVISIONSPART XIV

APPLICATION AND TRANSITIONAL PROVISIONS

Application of Act

82. Save as otherwise provided in this Part, the provisions of this Act shall apply in respect of all trade marks, including trade marks registered before the commencement of this Act:

Provided that-

(i) a trade mark registered before the commencement of this Act shall not be liable to be taken off the register except upon some ground upon which it would have been so liable in terms of the Registration of Trade Marks Act, Chapter 207 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") under which it was registered and shall, unless it is so removed in terms of this Act, lapse on the date of the expiration of the last registration thereof in terms of such legislation unless renewed in terms of section *twenty-five*;

(ii) fees for the renewal of any trade mark registered before the commencement of this Act shall be paid in accordance with the scale of fees prescribed for the renewal of trade marks registered under the provisions of this Act.

(*As amended by G.N. No.* 186 *of* 1964
and S.I. No. 175 *of* 1965)

83. *Repealed by Act No.* 17 *of* 1980.

84. *Repealed by Act No.* 17 *of* 1980.

85. *Repealed by Act No.* 17 *of* 1980.

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PART XV

TRADE MARK AGENTS

(*No.* 2 *of* 1962)

Registration of trade mark agents

86. Subject to the provisions of section *eighty-eight*, the Registrar shall keep a register of trade mark agents in which he shall-

(*a*) register the name of every person who is accepted for registration;

(*b*) show against the name of every person registered under paragraph (*a*) such particulars as he may from time to time deem necessary; and

(*c*) enter all changes relating to registrations.

(*As amended by S.I. No.* 175 *of* 1965)

Removal of names from register of trade mark agents

87. (1) The Registrar may remove from the register of trade mark agents the name of any trade mark agent upon proof to his satisfaction that such trade mark agent-

(*a*) has died;

(*b*) has become of unsound mind;

(*c*) has been adjudged or otherwise declared bankrupt under any written law, or has made an assignment to or composition with his creditors;

(*d*) has ceased to reside in Zambia, or has ceased to maintain a place of business therein;

(*e*) has applied for his name to be so removed;

(*f*) has, after being convicted, in Zambia or elsewhere, of the crime of theft, fraud, forgery or uttering a forged document or perjury, been sentenced to serve a term of imprisonment without the option of a fine, whether such sentence is suspended or not, and has not received a free pardon;

(*g*) having been entitled to practise as a trade mark agent has ceased to be so entitled, or has ceased to practise as such.

An appeal shall lie from any decision of the Registrar made under the provisions of this subsection.

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(2) Subject to the provisions of this section and such procedure as may be prescribed, the High Court may order the Registrar to remove the name of any trade mark agent from the register of trade mark agents or may suspend any trade mark agent from practising as such for such time as it thinks fit if it is satisfied, after due inquiry, that such person has been guilty of conduct discreditable to a trade mark agent or has been guilty of a breach of any regulations prescribed for the conduct of trade mark agents.

(3) Where the name of any trade mark agent has been removed from the register of trade mark agents under the provisions of subsection (1) or (2), his name shall not be restored to that register except by direction of the High Court which may further direct that such restoration shall be made either without fee or on payment of such fee as it may fix, and the Registrar shall restore the name accordingly.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

Privileges of legal practitioners and patent agents

88. Any person entitled to practise as a legal practitioner in Zambia and any patent agent may practise and describe himself as a trade mark agent and perform the functions set out in section *ninety* without being registered as a trade mark agent.

(*As amended by G.N. No.* 186 *of* 1964)

Entitlement to practise as a trade mark agent

89. (1) No person who is not-

(*a*) ordinarily resident in Zambia and registered as a trade mark agent; or

(*b*) such a person as is described in section *eighty-eight*;

shall practise as a trade mark agent.

(2) A person shall be deemed to practise as a trade mark agent if he performs any of the functions of a trade mark agent set out in section *ninety* or if he carries on within Zambia the business of applying for or obtaining for others trade marks in Zambia or elsewhere.

(3) No person who is not a trade mark agent shall describe himself as, or hold himself out to be, a trade mark agent, nor shall he permit himself to be so described or held out.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(*As amended by G.N. No.* 186 *of* 1964
and S.I. No. 175 *of* 1965)

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Trade mark agents and their functions

90. (1) Subject to the provisions of this Act, a trade mark agent may act as agent on behalf of any person in connection with any matter or proceeding before the Registrar under this Act and may draw and sign all documents and make all communications between an applicant and the Trade Marks Office and may represent an applicant at all attendances before the Registrar.

(2) A trade mark agent shall not be guilty of an offence under the provisions of any written law in force in Zambia prohibiting the preparation for reward of certain documents by persons not legally qualified, by reason only of the preparation by him of any document relating to trade marks for use in the Trade Marks Office or required in any proceedings under this Act before the Registrar or the High Court.

(*As amended by G.N. No.* 186 *of* 1964
and Act No. 17 *of* 1980)

Prohibition of certain acts by trade mark agents

91. (1) No trade mark agent shall have an interest either as a partner or manager or otherwise in more than one firm of trade mark agents in Zambia.

(2) No trade mark agent shall practise under a name or title which includes the name of any person who is not or was not-

(*a*) in his lifetime ordinarily resident in Zambia; or

(*b*) registered or entitled to practise as a trade mark agent under the provisions of this Act.

(3) No person shall practise as a trade mark agent if he is a party to-

(*a*) a contract of partnership; or

(*b*) an arrangement providing for the sharing or paying over of any professional fees;

relating to the business of a trade mark agent with any person who is prohibited from practising as a trade mark agent.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(*As amended by G.N. No.* 186 *of* 1964)

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SCHEDULE
(*Section* 42)

CERTIFICATION TRADE MARKS

1. (1) An application for the registration of a mark under section 42 must be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof.

(2) An applicant for the registration of a mark under the said section 42 shall transmit to the Registrar draft regulations for governing the use thereof at such time before the decision of the Registrar on the application as he may require in order to enable him to consider the draft.

(3) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it 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 thinks requisite.

(4) The provisions of subsections (5) to (8) of section 22 shall have effect in relation to an application under the said section 42 as they have effect in relation to an application under subsection (1) of the said section 22.

(5) In dealing with an application under the said section 42, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, shall have regard to the like considerations, so far as relevant, as if the application were an application under section 22 and to any other considerations relevant to applications under the said section 42, including the desirability of securing that a certification trade mark shall comprise some indication that it is such a trade mark, and including also the following matters, that is to say:

(*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.

2. When an application has been accepted, the applicant shall, as soon as may be after such acceptance, advertise the application as accepted in the prescribed manner, and the provisions of subsections (2) to (10) of section 23 shall have effect in relation to the registration of the mark as if the application had been an application under section 22.

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

(2) The Registrar may direct that an application for an alteration under this paragraph shall be advertised in any case where it appears to him that it is expedient so to do, and where an application has been so 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.

4. (1) On the application in the prescribed manner of any person aggrieved or of his own motion, the Registrar (subject to the provisions of section 44) may make such order as he thinks fit for expunging or varying any entry in the registrar relating to a certification trade mark or for varying the deposited regulations on the ground-

(*a*) 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;

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

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

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

(2) An appeal shall lie from any decision of the Registrar under this paragraph.

5. Notwithstanding anything in section 47, 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 authorise the use of the trade mark.

6. The following provisions of this Act shall not have effect in relation to a certification trade mark, that is to say, sections 9, 11, 14, 22 and 23 (except as expressly applied by this Schedule), subsections (4) to (8) of section 27, sections 31 to 34, section 74, and any provisions the operation of which is limited by the terms thereof to registration in Part B of the register.

(*As amended by Act No.* 17 *of* 1980)

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SUBSIDIARY LEGISLATION

TRADE MARKS

SECTION 3-THE TRADE MARKS OFFICE (ESTABLISHMENT) ORDER

Statutory Instrument 326 *of* 1968

Order by the Minister

Title

1. This Order may be cited as the Trade Marks Office (Establishment) Order.

Establishment of Trade Marks Office

2. The Trade Marks Office is hereby established at the place described in the Schedule.

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SCHEDULE
(*Paragraph* 2)

That part of the building known as "Kwacha House", Cairo Road, Lusaka, set apart for the Trade Marks Office.

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THE TRADE MARKS REGULATIONS

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148 *of* 1990
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13 *of* 1994

Title

1. These Regulations may be cited as the Trade Marks Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires-

"agent" means an agent duly authorised to the satisfaction of the Registrar;

"Office" means the Trade Marks Office;

"section" means a section of the Act;

"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.

Prescribed fees

3. The fees which shall be payable in respect of any application, registration and other matters under the Act and these Regulations shall be the fees prescribed in the First Schedule.

(*F.G.N. No.* 267 *of* 1962)

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Prescribed forms

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

Classification of goods

5. (1) For the purpose of-

(*a*) trade marks registrations dated in the former Protectorate of Northern Rhodesia before the 27th July, 1938;

(*b*) registrations of registered users in respect of the trade marks mentioned in paragraph (*a*);

goods are classified in the manner appearing in the Third Schedule unless any specification has been converted to the Fourth Schedule.

(2) For the purpose of-

(*a*) trade marks registrations dated in the former Protectorate of Northern Rhodesia on or after the 27th July, 1938;

(*b*) registrations of registered users in respect of the trade marks mentioned in paragraph (*a*);

(*c*) any trade marks registrations dated before the commencement of the Act whereof the specifications have been converted to the Fourth Schedule; and

(*d*) trade marks registered on or after the commencement of the Act or registrations of registered users thereunder;

goods are classified in the manner appearing in the Fourth Schedule.

Application by registered proprietors for conversion of specification

6. Where the specification of a registered trade mark is founded on the Third Schedule, the registered proprietor may apply to the Registrar on Form T.M. No. 45 for the conversion of that specification so that it may be founded on the Fourth Schedule, whether with or without the striking-out of goods therefrom, but so that the registration retains its original date, and shall include in the application a request for the like conversion of the specification of the goods of any registered users under that registration. Thereupon the Registrar in accordance with subsection (3) of section *forty-one* shall notify in writing to the registered proprietor a proposal showing the form which, in the Registrar's view, the amendment of the register should take. Two or more registrations of a trade mark in respect of goods falling within the same class of the Fourth Schedule, having the same date of registration, may be amalgamated upon conversion in accordance with this regulation.

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Advertisement of proposal. Opposition

7. The advertisement of a proposal for amendment under subsection (3) of section *forty-one* shall be made in the *Trade Marks Journal* and a notice of any opposition shall be given on Form T.M. No. 46 within two months from the date of the advertisement, and shall be accompanied by a duplicate of the notice and by a statement in duplicate showing how the proposed conversion would be contrary to subsection (2) of section *forty-one*. The Registrar shall forthwith send the duplicate copies to the registered proprietor who may, within two months from the receipt of such duplicates, send to the Registrar a counter-statement on Form T.M. No. 7 setting out fully the grounds on which the opposition is contested and if he does so he shall deliver to the opponent a copy thereof. The Registrar may thereupon 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.

(*As amended by F.G.N. No.* 57 *of* 1960)

Conversion of specifications; resulting registrations

8. When a proposal for the conversion of a specification in accordance with regulation 6 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 published subsequently in the *Trade Marks Journal*, and shall enter in the register the date when such entries were made. The expression "the expiration of the last registration" shall have regard to the same date in the case of all the resulting entries for the purpose of determining the next renewal thereof in accordance with section *twenty-five* as it had with regard to the registration before conversion.

(*As amended by F.G.N. No.* 57 *of* 1960)

Size, etc., of documents

9. Subject to any other directions that may be given by the Registrar, all applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act or these Regulations to be made, left or sent, at or to the Office, shall, unless the Registrar otherwise directs, be written, typewritten, lithographed or printed in the English language upon strong paper, in dark, indelible ink, on one side only, of a size approximately 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than 11/2 inches.

Signature of documents by partnerships, companies and associations

10. 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 authorised 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 authorised 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.

Service of documents

11. All applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act or these Regulations to be made, left or sent, at or to the Office or with or to any other person may be sent through the post by a prepaid letter; any application or any document so sent shall be deemed to have been made, left or sent at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

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Address

12. (1) Where any person is by the Act or these Regulations 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.

(2) The Registrar may require the address to include the name of the street and the number of the street or name of the premises, if any.

Address for service

13. (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 Zambia, to give an address for service within Zambia and such address may be treated as the actual address of that person for all purposes connected with the matter in question.

(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 an address for service for entry in the register, and such address may be entered by the Registrar.

(3) 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.

(4) 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.

(5) 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 request the Registrar receives no confirmation of that address, he may strike it off the register.

Agency

14. (1) Except as otherwise required by these Regulations, any application, request or notice which is required or permitted by the Act or these Regulations 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 a registered user of a trade mark and the Registrar or any other person, may be signed, made or given by or through an agent.

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(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 Act and these Regulations by signing and sending to the Registrar an authority to that effect in the Form T.M. No. 1, 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 recognise as such agent any person-

(*a*) who has been proved to him to have been guilty of conduct discreditable to a trade mark agent; or

(*b*) who has been convicted of a criminal offence and sentenced to imprisonment without the option of a fine; or

(*c*) who has been suspended from practice as a legal practitioner or whose name has been struck off the roll of legal practitioners in Zambia; or

(*d*) who has been adjudged guilty of conduct discreditable to a patent agent; or

(*e*) who has been suspended from practice as a patent agent, or whose name has been erased from the register of patent agents kept under the provisions of the Patents Act, and not subsequently restored. Cap. 400

15. (1) The Registrar may refuse to accept any application for the registration of a mark upon which any of the following appear: Registrable trade marks

(*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 the President, 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.

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(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 paragraph (*c*) of subregulation (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.

(*As amended by S.I. No.* 307 *of* 1965)

Armorial Ensigns, National Flag, etc.

16. The following features may not appear on trade marks the registration of which is applied for:

(*a*) representations of the Armorial Ensigns of Zambia or devices so nearly resembling it as to be likely to be mistaken for it;

(*b*) representations of the National Flag of Zambia;

(*c*) any words, such as "the President", "Republic" or "Zambia", or any letters or devices if used in such a manner as to be likely to lead persons to think that the applicant either has or recently has had the patronage or authorisation of the President or patronage or authorisation from the Government of the Republic of Zambia, whether or not such may be the case.

(*As amended by S.I. No.* 307 *of* 1965)

Arms of city, etc.

17. Where a representation of the armorial bearings, insignia, orders of chivalry, decorations or flags 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, shall, if he so requires, 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.

Consent of person to use of name or representation

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

Name or description of goods on a trade mark

19. (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.

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Preliminary advice by Registrar as to distinctiveness

20. (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 Form T.M. No. 30, or on Form T.M. No. 29 in a case where he is also making an application under regulation 113, for advice as to whether the trade mark, of which duplicate representations shall accompany the form, appears to the Registrar *prima facie* to be inherently adapted to distinguish within the meaning of section *fourteen* or *fifteen*, 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 the Fourth Schedule.

(2) A notice of withdrawal of an application for the registration of a trade mark given under subsection (3) of section *forty-three* 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.

Form of application. Specification

21. (1) An application to the Registrar for the registration of a trade mark shall be signed by the applicant or his agent. For a trade mark other than a certification or defensive trade mark the application shall be made on Form T.M. No. 2. For a certification or a defensive trade mark the application shall be made on Form T.M. No. 5 or Form T.M. No. 33 respectively. Each application shall be for registration in respect of goods in one class of the Fourth Schedule only.

(2) Every application claiming priority under section *seventy-three* by reason of an application to register the trade mark made or deemed to have been made in a convention country, which shall be named in the application, shall state the date of that application, and the applicant shall furnish a certificate by the registrar or other registering authority of that country, or shall otherwise verify the application made or deemed to have been made therein to the satisfaction of the Registrar.

(3) In the case of an application 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.

(4) For the purposes of the provisions of subsection (2) of section *twenty-two*, an application shall be made on Form T.M. No. 2, subject to such modifications as the Registrar may approve.

(*As amended by F.G.N. No.* 11 *of* 1961)

Address for application

22. An application for the registration of a trade mark shall be addressed and sent to the Registrar at the Office.

Representation of mark

23. (1) Every application for the registration of a trade mark shall contain a representation of the mark in the space provided on the application form for that purpose.

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(2) Where the representation exceeds such space in size, the representation shall be mounted upon linen, tracing cloth or such other material as the Registrar may consider suitable. Part of the mounting shall be affixed in the space aforesaid and the rest may be folded.

(3) In the case of word marks represented in plain letters, the word shall be printed or stencilled in letters of not less than 3/8 inch in size.

Additional forms and representations

24. There shall be sent with every application for registration of a trade mark (other than a certification trade mark) six additional representations of the mark on Form T.M. No. 3. The representation of the mark on the application and its duplicate (if any) and the additional representations shall correspond exactly. The additional representations shall in all cases be noted with all such particulars as may from time to time be required by the Registrar. Such particulars shall, if required, be signed by the applicant or his agent.

Representations to be durable

25. All representations of marks must be of a durable nature, but the applicant may in case of need supply, in place or representations on Form T.M. No. 3, such representations on sheets of strong paper as may be approved by the Registrar.

Separate applications

26. Applications 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 regulation 6 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 Act.

Representa-tions to be satisfactory

27. 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.

Specimens of trade marks in exceptional cases

28. (1) Where a drawing or other representation or specimen cannot be given in the 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.

(2) The Registrar may also, in exceptional cases, deposit in the Office 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

29. Where application is made for the registration of a series of trade marks under subsection (2) of section *twenty-six*, a representation of each trade mark of the series shall be included, all as aforesaid, in the application form, in the duplicate thereof (if any), and six representations of each trade mark of the series shall be pinned on the accompanying Form T.M. No. 3.

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Transliteration and translation

30. (1) 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, and on the accompanying Form T.M.No. 3, 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.

(2) 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.

Search

31. 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, and the Registrar may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

Acceptance, absolute or conditional; objection

32. 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 furnish 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.

Registrar's objections. Hearing

33. If the Registrar objects to the application, he shall inform the applicant of his objections in writing and, unless within two months 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 conditions, etc. Hearing

34. 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 two months 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.

Decision of Registrar

35. (1) The decision of the Registrar, at a hearing in accordance with regulation 33 or 34, 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 two months by applying upon Form T.M. No. 4 require the Registrar to state in writing the grounds of, and the materials used by him in arriving at, his decision.

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(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

36. 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.

Application under section 32

37. An application for the registration of a defensive trade mark under section *thirty-two* shall be made, addressed and sent to the Registrar on Form T.M. No. 33, and shall be accompanied by a statement of case setting forth the full particulars of the facts on which the applicant relies in support of his application, verified by an affidavit or solemn 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 Regulations shall apply to such applications as they apply to applications for the registration of ordinary trade marks.

Application under section 42

38. An application for the registration of a certification trade mark under section *forty-two* shall be made to the Registrar on Form T.M. No. 5 and shall be accompanied by six additional representations of the trade mark on Form T.M. No. 3.

Authorisation to proceed

39. (1) These Regulations shall apply to such applications as they apply to applications for the registration of ordinary trade marks, except that for references therein to acceptance of an application there shall be substituted references to authorisation to proceed with the application, and that the applicant shall not be deemed to have abandoned his application if in the circumstances of regulation 33 or 34 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 Regulations.

Case; draft regulations

40. 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 and Form T.M. No. 34, 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.

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Directions by Registrar

41. If the Registrar decides to authorise the application to proceed, he may at any time call for such evidence, if any, as he thinks fit, and shall if required hear the applicant before giving directions as provided in sub-paragraph (5) of paragraph 1 of the Schedule to the Act. When such directions have been given and the application has been accepted, the regulations for governing the use of the mark approved by the Registrar, as well as the form of application, shall be open to public inspection.

Advertisement of application

42. (1) An application for the registration of a trade mark required or permitted to be advertised by subsection (1) of section *twenty-three* or paragraph 2 of the Schedule to the Act, shall be advertised in Form T.M. No. 44 in the *Trade Marks Journal* . 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.

(2) If no representation of the trade mark be included in the advertisement of the application, the applicant shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

(*As amended by F.G.N. No.* 57 *of* 1960)

Wood block or electrotype printing

43. For the purposes of such advertisement the applicant may, at the appropriate time, supply or be required to supply a printing block (or more than one, if necessary) of the trade mark satisfactory to the Registrar, of such dimensions as may from time to time be approved or directed by the Registrar, or shall supply such information or other means of advertising the trade mark as may be required by the Registrar; and the Registrar, if dissatisfied with the printing block supplied by the applicant or his agent, may require a fresh block before approving of the advertisement.

Advertisement of series

44. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in subsection (2) of section *twenty-six*, the applicant may be required to supply a printing block (or more than one, if necessary) satisfactory to the Registrar of any or of each of the trade marks constituting the series; or the Registrar may, if he thinks fit, direct that there shall be inserted with the advertisement of the application a statement of the manner in which the several trade marks differ from one another.

Advertisement under sections 23 and 40

45. Advertisements under subsection (10) of section *twenty-three* and under subsections (2) and (4) of section *forty* shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration.

Opposition

46. Any person may within two months from the date of any advertisement in the *Trade Marks Journal* of an application for registration of a trade mark give notice on Form T.M. No. 6 to the Registrar of opposition to the registration.

(*As amended by F.G.N. No.* 57 *of* 1960)

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Notice of opposition

47. The notice shall include a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the mark resembles marks already on the register, the numbers of such trade marks and the dates of the *Trade Marks Journal* in which they have been advertised shall be set out. The notice shall be accompanied by a duplicate which the Registrar will forthwith send to the applicant.

(*As amended by F.G.N. No*. 57 *of* 1960)

Counter-statement

48. Within two months from the receipt of such duplicate, the applicant shall send to the Registrar a counter-statement on Form T.M. 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 in duplicate.

Evidence in support of opposition

49. Upon receipt of the counter-statement and duplicate, the Registrar shall forthwith send the duplicate to the opponent and, within two months from the receipt of the duplicate, the opponent shall leave with the Registrar such evidence by way of affidavit or solemn declaration as he may desire to adduce in support of his opposition and shall deliver to the applicant a copy of such evidence.

Evidence in support of application

50. (1) 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 two months from the receipt of the copies of such evidence, the applicant shall leave with the Registrar such evidence by way of affidavit or solemn declaration as he desires to adduce in support of his application and shall deliver to the opponent a copy thereof.

(2) An applicant shall, unless the Registrar otherwise directs, be deemed to have withdrawn his application if, within the period of two months referred to in sub-regulation (1), he-

(*a*) fails to leave with the Registrar such evidence as he desires to adduce in support of his application; or

(*b*) fails to notify the Registrar in the event of his not desiring to adduce evidence in support of his application.

(*As amended by F.G.N. No*. 11 *of* 1961)

Evidence in reply by opponent

51. Within two months from the receipt by the opponent of the copy of the applicant's affidavit or solemn declaration, the opponent may leave with the Registrar evidence by affidavit or solemn declaration in reply, and shall deliver to the applicant a copy of such evidence. This evidence shall be confined to matters strictly in reply.

Further evidence

52. No further evidence shall be left on 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 he may think fit.

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Exhibits

53. Where there are exhibits to affidavits or solemn declarations filed in an opposition, a copy or impression of each exhibit 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 in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

Hearing

54. 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. Such 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 Form T.M. 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 T.M. No. 8 may be treated as not desiring to be heard and the Registrar may act accordingly.

Extension of time

55. Where in opposition proceedings any extension of time is granted to any party, the Registrar may thereafter, if he thinks fit, without giving the said party a hearing, grant any reasonable extension of time to any other party in which to take any subsequent step.

Security for costs

56. 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 Zambia, 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 in uncontested case

57. 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.

Opposition to application under section 42

58. Within two months from the date of any advertisement in the *Trade Marks Journal* of an application for the registration of a certification trade mark, any person may give notice to the Registrar on Form T.M. No. 37 of opposition under paragraph 2 of the Schedule to the Act, and regulations 47 to 57 shall apply *mutatis mutandis* to the proceedings thereon, with substitution of Form T.M. No. 38 for Form T.M. No. 7, and of Form T.M. No. 39 for Form T.M. No. 8. In any case of doubt any party may apply to the Registrar for directions.

(*As amended by F.G.N. No*. 57 *of* 1960)

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Non-completion within twelve months

59. Where registration of a trade mark is not completed within twelve months from the date of application by reason of default on the part of the applicant, the Registrar shall on Form T.M. No. 9 give notice in writing to the applicant at his trade or business address of the non-completion, but if the applicant has authorised an agent for the purpose of the application, he shall instead send the notice to the agent and shall send a duplicate thereof to the applicant. 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.

Entry in register

60. (1) As soon as may be after the expiration of two months from the date of the advertisement in the *Trade Marks Journal* 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 subsection (1) of section *twenty-four*, and upon payment of the prescribed fee on Form T.M. No. 10, enter the trade mark in the register. In those cases where the applicant has supplied a printing block in accordance with regulation 43, he shall send with his fee a representation of the trade mark agreeing in all respects with the representation then appearing on the form of application, to be affixed by the Registrar to the certificate of registration as required by regulation 63. 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 subsection (1) of section *six*, including both the trade or business address and the address for service (if any), particulars of the trade, business, profession, occupation or other description of the proprietor, particulars of any undertakings by the proprietor entered on the form of application, particulars affecting the scope of the registration or the rights conferred by the registration and such other particulars as are prescribed.

(2) In the case of an application as aforesaid 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.

(*As amended by F.G.N. No.* 57 *of* 1960)

Associated marks

61. (1) Where a mark is registered as associated with any other mark or marks, the Registrar shall note in the register in connection with the first-mentioned mark the numbers of the marks with which it is associated and shall also note in the register in connection 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 subsection (5) of section *twenty-eight* to the Registrar to dissolve the association between two or more associated trade marks shall be made on Form T.M. No. 20, and shall include a statement of the grounds of the application.

Death of applicant before registration

62. In 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 advertisement 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.

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Certificate of registration

63. Upon the registration of a trade mark, the Registrar shall issue to the applicant a certificate in Form T.M. No. 11, and shall affix thereto a copy of the mark, which may be a representation thereof supplied by the applicant under regulation 60.

Renewal of registration

64. At any time not more than six months before the expiration of the last registration of a trade mark, any person may leave at the Office a fee for the renewal of the registration of the mark with Form T.M. No. 12, 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-

(*a*) require the person leaving the fee to furnish within fourteen 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.

Notice before removal of trade mark from register

65. At a date not less than three months and not more than six months before the expiration of the last registration of a mark, if no fee with Form T.M. No. 12 has been received, the Registrar shall notify the registered proprietor in writing of the approaching expiration.

Second notice

66. At a time not less than fourteen days and not more than one month before the expiration of the last registration of a mark, the Registrar may, if no fee as aforesaid has been received, send a notice in writing to the registered proprietor at his trade or business address as well as at his address for service, if any.

Advertisement of non-payment

67. 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 forthwith in the *Trade Marks Journal*. If the Registrar receives the renewal fee with Form T.M. No. 12, together with an additional fee accompanying Form T.M. No. 13, at any time during the period between such date of expiration and one month after such advertisement, he may renew the registration without removing the mark from the register.

(*F.G.N. No*. 11 *of* 1961)

Removal of trade mark from register

68. Where, at the expiration of one month from the advertisement mentioned in regulation 67, 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 with Form T.M. No. 12 together with a restoration fee accompanying Form T.M. No. 14, 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 of mark

69. 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.

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Notice and advertisement of renewal and restoration

70. 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 *Trade Marks Journal* .

(*As amended by F.G.N. No.* 57 *of* 1960)

Joint application for entry of assignment or transmission

71. 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 Form T.M. No. 16 to register his title.

Application for entry of assignment or transmission by subsequent proprietor

72. Where a person becomes entitled to a registered trade mark in the manner referred to in regulation 71, and no conjoint application as therein mentioned is made, he shall make application to the Registrar on Form T.M. No. 17 to register his title.

Particulars to be stated in application

73. An application under regulation 71 or 72 shall contain the name, trade or business address 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 for inspection by the Registrar, 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.

Case accompanying application

74. Where, in the case of an application on Form T.M. No. 16 or No. 17, 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 affidavit or solemn declaration on Form T.M. No. 18.

Proof of title

75. 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.

Application for entry of assignment without goodwill

76. (1) An application under regulation 71 or 72 relating to an assignment, on or after the commencement of the Act, of a trade mark in respect of any goods shall state-

(*a*) whether the trade mark was, at the time of the assignment, used in a business in any of those goods; and

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(*b*) whether the assignment was made otherwise than in connection with the goodwill of that business; and, if both those 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 subsection (7) of section *twenty-seven* and regulation 80, 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 subsection (3) of section *thirty-four*, the period within which a corporation may be registered as the subsequent proprietor of a registered trade mark, upon application made under regulation 71 or 72, shall be six months from the date of advertisement in the *Trade Marks Journal* of the registration of the trade mark or such further period not exceeding six months as the Registrar may allow, on application being made to him on Form T.M. No. 15 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.

(*As amended by F.G.N. No.* 57 *of* 1960)

Entry in register

77. 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 the assignment or transmission.

Separate registrations

78. Where, pursuant to an application under regulation 71 or 72, and as the result of a division and separation of the goods of a registration or a division and separation of places or 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 Act.

Registrar's certificate or approval as to certain assignments and transmissions

79. Any person who desires to obtain the Registrar's certificate under subsection (5) of section *twenty-seven*, or his notification of approval under subsection (6) of section *twenty-seven*, shall send to the Registrar, with his application on Form T.M. No. 40 or No. 41, as the case may be, 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 affidavit or solemn 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 seal a copy of the statement of case in its final form to the certificate or notification.

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

80. (1) An application to the Registrar under subsection (7) of section *twenty-seven* shall be made by the assignee on Form T.M. No. 42 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 subsection (3) of section *twenty-seven*. 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.

(2) The Registrar may refuse to consider such an application in a case to which subsection (6) of section *twenty-seven* applies, unless his approval has been obtained under the said subsection and a reference identifying the Registrar's notification of approval is included in the application.

(3) A request to the Registrar for an extension of the period within which the application may be made, which shall be on Form T.M. No. 43, 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 be at his discretion.

(*As amended by S.I. No.* 223 *of* 1965)

Alteration of address in register

81. (1) A registered proprietor or registered user of a trade mark whose trade or business address or address for service is changed so that the entry in the register is rendered incorrect shall forthwith request the Registrar on Form T.M. No. 19 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 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 T.M. No. 19, and if he does so he shall leave therewith a certificate of the alteration given by the said authority. If the Registrar is satisfied as to the facts of the case, he shall alter the register accordingly, but shall not require the payment of the prescribed fee.

(3) In case of the alteration of the address of a person entered in the register as the address for 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 so to do, accept an application from that person on Form T.M. No. 19 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.

(4) All applications under this regulation on Form T.M. No. 19 shall be signed by the registered proprietor or the registered user, as the case may be, or by an agent expressly authorised by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

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

82. An application to the Registrar under any of the sections *thirty-one, thirty-two, thirty-seven* or *thirty-eight* for the making, expunging or varying of any entry in the register shall be made on Form T.M. No. 27, 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 a copy of the application and a copy of the statement, and these copies shall be transmitted forthwith by the Registrar to the registered proprietor.

Further procedure

83. Upon such application being made, and copy thereof transmitted to the registered proprietor, if necessary, the provisions of regulations 48 to 57 shall apply *mutatis mutandis* to the further proceedings thereon; but the Registrar shall not rectify the register or remove the mark from the register merely because the registered proprietor has not filed a counterstatement. In any case of doubt any party may apply to the Registrar for directions.

Intervention by third parties

84. Any person other than the registered proprietor alleging interest in a registered trade mark in respect of which an application is made on Form T.M. No. 27 may apply to the Registrar on Form T.M. No. 28 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.

Application under section 39 (1)

85. An application to the Registrar under subsection (1) of section *thirty-nine* 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 Form T.M. No. 19, No. 21, No. 22, No. 23, No. 24 or No. 25, as may be appropriate.

Evidence

86. In the case of an application as in regulation 85, the Registrar may require such evidence by affidavit, solemn declaration or otherwise as he may think fit as to the circumstances in which the application is made.

Advertisement of certain applications

87. Where application is made on Form T.M. No. 25 to enter a disclaimer or memorandum relating to a trade mark, the Registrar, before deciding upon such application, shall direct the applicant to advertise the application in the *Trade Marks Journal* in order to enable any person desiring so to do to state, within two months of the advertisement, any reasons in writing against the making of the entry of the disclaimer or memorandum.

(*As amended by F.G.N. No.* 57 *of* 1960)

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Certificates of validity to be noted

88 Where the High Court or the Tribunal has certified as provided in section *fifty-eight* with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar on Form T.M. No. 49 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 in the form. A certified copy of the certificate shall be sent with the request, and the Registrar shall so note the register and direct the proprietor to publish the note in the *Trade Marks Journal* .

(*As amended by F.G.N. No.* 57 *of* 1960)

Alteration of registered mark

89. Where a person desires to apply under section *forty* that his registered trade mark may be added to or altered, he shall make his application on Form T.M. No. 26 and shall furnish the Registrar with six copies of the mark as it will appear when so added to or altered.

Advertisement before decision

90. The Registrar shall consider the application and shall, if it appears to him expedient, direct the registered proprietor to advertise the application in the *Trade Marks Journal* before deciding it. Within two months from the date of such advertisement, any person may give notice of opposition to the application on Form T.M. No. 47 accompanied by a 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 regulations 48 to 57 shall apply *mutatis mutandis* to the further proceedings thereon. In any case of doubt any party may apply to the Registrar for directions.

(*As amended by F.G.N. No.* 57 *of* 1960)

Advertisement after decision

91. If the Registrar decides to allow the application, he shall add to or alter the mark in the register and, if the mark so added to or altered has not been advertised under regulation 90, he shall direct the registered proprietor to advertise it in the *Trade Marks Journal*.

(*As amended by F.G.N. No.* 57 *of* 1960)

Supply of printing block

92. In connection with an application to alter a registered trade mark, the Registrar may at any time call on the applicant to supply 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.

Orders for rectification of certification trade mark entries and regulations

93. An application on any of the grounds mentioned in paragraph 4 of the Schedule to the Act, made by an aggrieved person to the Registrar for an order expunging or varying an entry in the register of or relating to a certification trade mark, or varying the relevant deposited regulations, shall be made on Form T.M. No. 36 and shall include full particulars of the grounds on which the application is made.

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Alteration of certification trade mark regulations

94. An application by the registered proprietor of a certification trade mark for an alteration of the deposited regulations and the consent of the Registrar thereto shall be made on Form T.M. No. 35. Where the Registrar causes such an application to be advertised, 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.

Service of documents

95. Where any document is by these Regulations directed to be served upon the Registrar, it shall be served in duplicate.

Application for entry of registered user

96. An application to the Registrar for the registration under section *thirty-three* of a person as a registered user of a registered trade mark shall be made by that person and the registered proprietor on Form T.M. No. 50.

Entry and notification

97. The date of an entry of a registered user in the register shall be the date upon which the application for registration as a registered user was made. In addition to the trade or business address of the registered user, it may include an address for service, if such 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 by the registered proprietor in the *Trade Marks Journal*.

(*As amended by F.G.N. No.* 57 *of* 1960)

Registered proprietor's application to vary entry

98. 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 subsection (8) of section *thirty-three* shall be made on Form T.M. No. 51, 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 by registered proprietor or user to cancel entry

99. 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 subsection (8) of section *thirty-three* shall be made on Form T.M. No. 52, and shall be accompanied by a statement of the grounds on which it is made.

Application under section 33 (8) (c) to cancel entry

100. An application by any person for the cancellation of the registration of a registered user under paragraph (*c*) of subsection (8) of section *thirty-three* shall be made on Form T.M. No. 53, and shall be accompanied by a statement of the grounds on which it is made.

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Notification and hearing

101. The Registrar shall notify in writing applications under regulations 98, 99 and 100 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 Form T.M. No. 54 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 such conditions, amendments, modifications or limitations as he may think right to impose.

Registered user's application under section 39 (2)

102. (1) Applications under subsection (2) of section *thirty-nine* shall be made on Form T.M. No. 19, No. 21 or No. 22, 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 affidavit or solemn 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 of a period, in accordance with paragraph (*d*) of subsection (4) of section *thirty-three*, the Registrar shall cancel the entry of the registered user at the end of the 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 sub-regulation to the registered users whose permitted use is affected thereby and the registered proprietor of the trade mark.

Extension of time

103. 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 proceedings under these Regulations, not being a time expressly provided in the Act or prescribed by regulation 76 or 80, he may extend the time upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act or taking the proceeding.

Excluded days

104. Whenever the last day fixed by these Regulations for doing any act or thing at the Office shall fall on a day when the Office is not open, which day shall be an excluded day for the purposes of these Regulations, it shall be lawful to do the act or thing on the first day following such excluded day which is not an excluded day.

(*As amended by F.G.N. No.* 11 *of* 1961)

Hearing

105. Before exercising adversely to any person any discretionary power given to the Registrar by the Act or by these Regulations, the Registrar shall, if so required, hear such person thereon.

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Application for hearing

106. An application for a hearing shall be made within one month from the date of 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.

Notice of hearing

107. (1) Upon receiving such application the Registrar shall give the person applying fourteen days' notice of a time when he may be heard.

(2) Within seven 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 matter.

Notification of decision

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

Dispensing with evidence

109. Where under these Regulations 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 Office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do 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.

Amendment of documents

110. 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 thinks fit, and on such terms as he may direct.

Certificates by Registrar

111. The Registrar may give a certificate, other than a certificate under subsection (2) of section *twenty-four*, as to any entry, matter of thing which he is authorised or required by the Act or these Regulations to make or do, upon receipt of a request therefor on Form T.M. No. 32 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 not be obliged to include in the certificate a copy of any mark, unless he is furnished by the applicant with a copy thereof suitable for the purpose.

Manner in which and person before whom affidavit or solemn declaration is to be taken

112. The affidavits and solemn declarations required by the Act and Regulations, or used in any proceedings thereunder, shall be accepted if made and subscribed before any Judge, magistrate, notary public under his signature and seal of office, or by the Registrar of a Court of Justice or by a commissioner for oaths.

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Searches

113. Any person may request the Registrar on Form T.M. No. 29 to cause a search to be made in respect of specified goods classified in any one class of the Third Schedule or the Fourth Schedule to ascertain whether any 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 search to be made and the person making the request to be informed of the result thereof.

Days and hours of business

114. The Office shall be open to the public and the register shall be open to inspection on payment of the fee specified in the First Schedule every weekday, except Saturday, between the hours of nine and one, and two and half-past three; except on public holidays.

Procedure on appeal from decision of Registrar

115. (1) Any person who wishes to appeal against a decision of the Registrar shall-

(*a*) submit his case in writing to the Registrar who shall furnish that person with his written decision and his grounds therefor;

(*b*) within three months from the date of the decision of the Registrar-

(i) leave at the Office a notice in Form T.M. No. 31;

(ii) file with the registrar of the Tribunal a notice of appeal in accordance with the provisions of the Trade Marks (Tribunal) Rules.

(2) The provisions of sub-regulation (1) shall not apply in the case of an application within regulations 31 to 35.

Copy of application to Tribunal to be served on Registrar

116. A copy of every application made to the Tribunal under the Act shall be served on the Registrar.

Order of High Court or Tribunal

117. Where an order has been made by the High Court or the Tribunal in any case under the Act, 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 Office a certified copy of such order, together with Form T.M. No. 48 if required. The register may, if necessary, thereupon be rectified or altered by the Registrar.

Publication of order of High Court or Tribunal

118. Whenever an order is made by the High Court or the Tribunal under the Act the Registrar may, if he thinks fit that the order should be made public, require the applicant or the appellant, as the case may be, to publish it in the *Trade Marks Journal*.

(*As amended by F.G.N. No.* 57 *of* 1960)

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APPENDIX
(*Regulation 2*)

FIRST SCHEDULE
(*Regulation 3*)

TARIFF OF FEES PAYABLE TO THE REGISTRAR OF TRADE MARKS
WITH EFFECT FROM 1ST MAY 1995

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The following fees shall be paid in respect of applications, registrations and other matters under the Act. Such fees must in all cases be paid before or at the time of doing the matter in respect of which they are to be paid.

Item	*Matter or Proceeding*	*Amount* Fee units	*Amount Payable by Local Firms, Corporations and Individuals* US$	*Payable by Foreign Firms, Corporations and Individuals*	*Corresponding Form No.*
1.	(*a*) On application not otherwise charged to register a trade mark for a specification of goods included in one class	15	150.00		2
	(*b*) On application to register a series of trade marks under subsection (2) of section 26 for a specification of goods included in one class	15	150.00		2
	(*c*) On application to register a defensive trade mark for a specification of goods included in one class	14	150.00		33
	(*d*) On application under section 42 to register a certification trade mark for a specification of goods included in one class	14	150.00		5
	(*e*) On application made at the same time under section 42 to register one certification trade mark for a specification of goods not all included in one class, in respect of each class	14	150.00		5
2.	On a request to the Registrar to state grounds of decision relating to an application to register a trade mark and materials used	25	170.00		4
3.	(*a*) On notice of opposition before the Registrar under section 23, for each application opposed	8	22.00		6
	(*b*) On lodging a counter-statement in answer to a notice of opposition under section 23, or in answer to an application under any of sections 31, 32, 37 and 38, or in answer to a notice of opposition under section 40 or 41, in respect of each trade mark	5	14.00		7
	(*c*) On the hearing of each opposition under section 23 (fee payable by the applicant and by the opponent), or on the hearing of an application under any of sections 31, 32, 37 and 38 (fee payable by the applicant and by the proprietor), or on the hearing of an opposition under section 40 or 41, (fee				

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	(*b*) On application to change the name or registered user of more than one trade mark standing in the same name, where there has been no change in the proprietorship, the change being the same in each case-			
	For the first mark	30	200.00	22
	And for every other mark	6	15.00	22
11.	(*a*) For renewal of registration of a trade mark at the expiration of last registration	50	450.00	12
	(*b*) For renewal of registration of a series of trade marks under subsection (2) of section 26 at the expiration of last registration-			
	For the first mark of the series	50	450.00	12
	And for every other mark of the series	10	35.00	12
	(*c*) For renewal of registration of the same certification trade mark with the same date for goods in more than one class, in respect of every class	15	75.00	12
	Provided that for any number of classes, the fee shall in no case exceed	50	450.00	12
	(*d*) Additional fee under regulation 67	10	35.00	13
	(*e*) Restoration fee under regulation 68	20	130.00	14
12.	(*a*) On application to the Registrar for leave to add to, or alter a single registered mark	20	130.00	26
	(*b*) On application to the Registrar for leave to add to, or alter more than one registered trade mark of the same proprietor, being identical marks, the addition or alteration to be made in each case being the same-			
	For the first mark	20	130.00	26
	And for every other mark	-	-	26
	(*c*) On notice of opposition to to application for leave to add to or alter registered trade marks, for each application opposed	20	130.00	47
13.	For altering one or more of the trade or business address or address for service 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 regulation 81)-			
	For the first entry	15	75.00	19
	And for every other entry	5	14.00	19

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 1

Regulation 14

THE TRADE MARKS ACT

Fee unit: 5

FORM OF AUTHORISATION OF AGENT

I/We (1) ..... (1) The names the par a firm r inserte the kin country incorpo of bodi corpora stated

..... (2) Her name a addres agent

have appointed (2) .....

of .....

to act as my/our agent for (3) ..... (3) Her the par matter procee which t agent i appoin giving t referen numbe known

..... No .....

and request that all notices, requisitions and communications relating thereto may be sent to such agent at the above address.

I/We hereby revoke all previous authorisations, if any, in respect of the same matter or proceeding.

I/We hereby declare that I am/we are a (4) ..... (4) Her nationa

Dated this ..... day of ....., 19 .....

(5) ..... (5) To l signed person appoin agent

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Address (6) .....
(To be struck out if the person appointing the agent desires his own address to be treated as the address for service after registration.)

I/We also authorise the said (2) .....
.....
to complete the entry of an address for service as part of any registration obtained under the above authorisation.

Dated this ..... day of ....., 19 .....

(5) .....

Address (6) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(6) Her
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REPUBLIC OF ZAMBIA

FORM T.M. NO. 2

Section 22 or 26
Regulation 21

THE TRADE MARKS ACT

Fee: 1 or 1 (*a*)

APPLICATION FOR REGISTRATION OF TRADE MARK IN PART*(3) OF THE REGISTER

* Write distinct "A" or " accirdu tge regustr desirec

One representation to be fixed within this space and six others to be pinned on to and sent with Form T.M. No. 3.

Application is hereby made for registration in Part* of the register of the accompanying trade mark in Class .....

in respect of (1) .....
.....
.....

(1) Her specify goods. goods in one same c should specifie separa applica form is require each cl

in the name of (2) ..... whose

(2) Her legibly name, descrip and na of the individu or body corpora making applica The na all part a firm r given i the app a body corpora kind an country incorpo should stated

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trade or business address is (3) .....
.....

trading as (4) .....
by whom it is (5) proposed to be used and who claim(s) to be the proprietor(s) thereof.

(6) .....
.....
.....
.....

Dated this ..... day of ....., 19 .....

(7) .....

My/Our address for service in Zambia:

.....

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The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 3

Sections 22 and 26 (2)
Regulations 24, 29, 30 and 38

THE TRADE MARKS ACT

ADDITIONAL REPRESENTATION OF TRADE MARK TO ACCOMPANY APPLICATION FOR REGISTRATION

Six representations of the trade mark must be pinned within this space. They must correspond *exactly* in all respects with the representations affixed to the application form.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 4

Section 22 (5)
Regulation 35

THE TRADE MARKS ACT

Fee units: 25 2,528

REQUEST FOR STATEMENT OF GROUNDS OF DECISION

IN THE MATTER OF (1) .....

the Registrar is hereby requested to state in writing the grounds of his decision, dated the

..... day of ....., 19 .....,

after the hearing on the ..... day of ....., 19 .....,

and the materials used by him in arriving at the decision.

Dated this ..... day of ....., 19 .....,

(2) .....

My/Our address for service in Zambia:

.....

.....

.....

If the Registrar has made any requirement to which the applicant does not object, the applicant shall comply therewith before the Registrar issues the grounds of his decision.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 5

Section 42
Regulations 21 and 38

THE TRADE MARKS ACT

Fee: 1 (*c*) or 1 (*d*)

APPLICATION FOR REGISTRATION OF CERTIFICATION TRADE MARK

One representation to be fixed within this space, and six others to be pinned on to and sent with Form T.M. No. 3

Application is hereby made for registration in Part C of the register of the accompanying certification trade mark in Class .....

in respect of (1) .....

of (2) .....

whose address is (3) .....

.....

Dated this ..... day of ....., 19 .....,

(1) Her specify goods. goods and the class s be spe separa applica form is require each cl

(2) Sta full nan descrip and na of the applica the app a body corpora kind an country incorpo should stated

(3) Her the full addres applica

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(4) Sig

(4) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 6

Section 23
Regulation 46

THE TRADE MARKS ACT

Fee units: 9

NOTICE OF OPPOSITION TO APPLICATION FOR REGISTRATION OF A TRADE MARK
(To be lodged in duplicate)

IN THE MATTER OF an application No .....

by ..... of .....

.....

I/We (1) ..... hereby give notice of my/our intention to oppose the registration of the trade mark advertised under the above number for Class .....

in the *Trade Marks Journal* of the ..... day of .....

19 ....., No ....., page .....

The grounds of opposition are as follows:

.....

.....

.....

(2) .....

Dated this ..... day of ....., 19 .....,

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(3) Sig

(3) .....

My/Our address for service in Zambia:

.....

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.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 7

Section 23, 31, 32, 37, 38, 40 or 41
Regulation 7, 48, 83 or 90

THE TRADE MARKS ACT

Fee units: 6

FORM OF COUNTER-STATEMENT
(To be lodged in duplicate)

IN THE MATTER OF an opposition No ....., to

Application No. .....

I/We, ... the applicant(s) for registration of the above trade mark, hereby give notice that the following are the grounds on which I/we rely as supporting my/our application:

.....

.....

.....

I/We admit the following allegations in the notice of opposition:

.....

.....

.....

Dated this ..... day of ....., 19 .....,

(1) Sig

(1) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 8

Section 23, 31, 32, 37, 38, 40 or 41
Regulation 7, 54, 83 or 90

THE TRADE MARKS ACT

Fee units: 9

NOTICE TO THE REGISTRAR OF ATTENDANCE AT HEARING

I/We (1) ..... (1) Sta name a addres

of .....
hereby give notice that the hearing of the arguments in the case of:

(2) (*a*) opposition No. ..... to application for registration of a trade mark No. .....; (2) Stri outwor that are applica as to st of the c (*a*) to (

(*b*).....application that the entry in the register in respect of trade mark No. ..... may be removed;

(*c*).....

may be amended by alteratio of or addition to the trade mark;

(*d*).....

may be amended by a conversion of the specification of goods;

(*e*).....

may be amended otherwise than by any change in the mark or of the specification on conversion.

which, by the Registrar's Notice to me/us dated the .....
day of ....., 19 ....., is fixed for ..... a.m. or p.m. at the Trade Marks Office on the ..... day of ....., 19 ....., will be attended by me/us or by some person on my/our behalf.

Dated this ..... day of ....., 19 .....,

(3) ..... (3) Sig

(4) ..... (4) Adc

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 9

Section 24 (3)
Regulation 59

THE TRADE MARKS ACT

NOTICE OF NON-COMPLETION OF REGISTRATION

No .....

The Registrar, as required by subsection (3) of section 24 of the Trade Marks Act, and regulation 59 of the Trade Marks Regulations, has to point out that the registration of the trade mark, in respect of which your application numbered as above was made on the
..... day of ....., 19 ....., has not been completed by reason of your default. Unless it is completed within fourteen days from this date the application will be treated as abandoned.

Dated this ..... day of ....., 19 .....,

To .....

.....

.....

.....

The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 10

Section 24, 26 or 42
Regulation 60

THE TRADE MARKS ACT

Fee: 4, 4 (*a*), 4 (*b*), 4 (*c*) or 4 (*d*) and 5

FEE FOR REGISTRATION OF A TRADE MARK

(If the Applicant has furnished a printing block for advertisement, this form must be accompanied by one unmounted representation of the mark, exactly as shown on the form of application.)

The prescribed fee for the registration of the trade mark No. ..... in Class ..... is hereby transmitted.

Dated this ..... day of ....., 19 .....,

(1) ..... (1) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 11

THE TRADE MARKS ACT

CERTIFICATE OF REGISTRATION

The Trade Mark shown above has been registered in Part .....

..... of the Register in the name of

.....

.....

.....

.....

in Class ..... under No. ..... as of the .....

....., 19 ....., in respect of .....

.....

Sealed at my direction, this ..... day of ....., 19 .....

.....

Register

The Trade Marks Office,
Lusaka,
Zambia.

Registration is for 7 years from the date first above mentioned, and may then be renewed, and also at the expiration of each period of 14 years thereafter.

NOTE.-Upon any change of ownership of this trade mark, or change in address, application should AT ONCE be made to the Registrar to register the change.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 12

Section 25
Regulation 64

THE TRADE MARKS ACT

Fee: 11, 11 (*a*) or 11 (*b*)

*(4)RENEWAL OF REGISTRATION OF TRADE MARK

I/We (1) ..... (1) Sta
name a
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of .....

hereby leave the prescribed fee of ..... for renewal of

registration of the trade mark No. ..... in Class .....***(5), *** If th
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which I am/we are directed by the proprietor of the trade mark, that is to say by

(2) ..... to pay. (2) If th
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Dated this ..... day of ....., 19 .....,

(3) ..... (3) Sig
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The statement on the back of this form must be filled in and signed.

The Registrar,
The Trade Marks Office,
Lusaka,

*This form will be returned if it is filed more than six months before the expiration of the last registration.

(To appear on the back of the form)

The Registrar is requested to send notice of renewal of the registration to (4) the registered proprietor at the following address: (4) If th
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(5) Sig

(5) .....

Dated this ..... day of ....., 19 .....,

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 13

Section 25
Regulation 67

THE TRADE MARKS ACT

Fee Unit: 176

ADDITIONAL FEE UNIT OF 1 TO ACCOMPANY RENEWAL FEE (FORM T.M. NO. 12)
WITHIN ONE MONTH AFTER ADVERTISEMENT OF NON-PAYMENT OF RENEWAL FEE

(To accompany Form T.M. No. 12)

In pursuance of the notices issued by the Registrar, I/We hereby transmit the additional fee unit of 1 (along with Form T.M. No. 12) for the renewal of the registration of the trade

mark No. ..... in Class .....

Dated this ..... day of ....., 19 .....,

(1) ..... (1) Sig

(2) ..... (2) Adc

NOTE.-This form must be signed by the person(s) signing the Form T.M. No. 12 which accompanies it.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 14

Section 25
Regulation 68

THE TRADE MARKS ACT

Fee: K176

RESTORATION OF TRADE MARK REMOVED FROM REGISTER FOR NON-PAYMENT OF FEE

(To accompany Form T.M. No. 12)

In pursuance of the notices issued by the Registrar, I/We hereby transmit the additional fee unit of 1 (along with Form T.M. No. 12) for the restoration to the register of the trade

mark No. ..... in Class .....

Dated this ..... day of ....., 19 .....,

(1) ..... (1) Sig

(2) ..... (2) Adc

NOTE.-This form must be signed by the person(s) signing the Form T.M. No. 12 which accompanies it.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 15

Section 34 (3)
Regulation 76

THE TRADE MARKS ACT

Fee: 7 (*a*)

APPLICATION FOR EXTENSION OF TIME, IN ACCORDANCE WITH SECTION 34 (3), FOR THE REGISTRATION OF THE NAME OF A CORPORATION AS SUBSEQUENT PROPRIETOR OF A TRADE MARK IN THE REGISTER

Application is hereby made by (1) ..... (1) Her the nar
..... of addres
applica
..... for

an extension of time by (2) ..... months of the period of six months allowed by subsection (3) of section 34 and regulation 76 for registering its name, by force of one assignment, as proprietor of the following trade mark(s) registered upon application(s) conforming to paragraph (*a*) of subsection (1) of section 34: (2) Her "two" o or "six"

(3) Registration Number	Class
.....	.....
.....	.....
.....	.....

(3) Adc numbe be give signed schedu the bac form

Dated this ..... day of ....., 19 .....,

(4) ..... (4) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA

FORM T.M. NO. 16

Section 27
Regulation 71

THE TRADE MARKS ACT

Fee: 9 or 9 (*a*)

JOINT REQUEST TO THE REGISTRAR BY REGISTERED PROPRIETOR AND TRANSFEREE TO REGISTER THE TRANSFEREE AS SUBSEQUENT PROPRIETOR OF TRADE MARKS UPON THE SAME DEVOLUTION OF TITLE

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

We (1) ..... (1) Sta and ad registe proprie other a or trans

..... (2) Sta name, addres nationa transfe

and (2) .....

.....

hereby request, under regulation 71, that the name of (3) ..... (3) Nar transfe

.....

carrying on business as (4) ..... (4) Des of trans

at (5) ..... (5) Tra busines addres transfe

may be entered in the register of trade marks as proprietor of the trade mark(s)

No .....*(6) in Class ..... as from * Additi numbe be give signed schedu the bac form

the (6) .....by virtue of (6) Dat acquisi proprie

(7) ..... (7) Full particu the inst of assig or transm any, or statem case

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(8) The trade mark at the time of the assignment was (8) not/used in a business in the goods in question, and the assignment (8) took/did not take place on or after the commencement of the Act otherwise than in connection with the goodwill of a business in the goods, (8) and there is sent herewith a copy of the Registrar's direction to advertise the assignment, a copy of each of the advertisements complying therewith, and a statement of the dates of issue of any publication containing them. (8) Stri any wo applica regulat

Dated this ..... day of ....., 19 .....,

(9) ..... (9) Sig of assig transm

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

(10) ..... (10) Si
of trans

Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 17

Section 27
Regulation 72

THE TRADE MARKS ACT

Fee: 9 or 9 (*a*)

REQUEST TO THE REGISTRAR TO REGISTER A SUBSEQUENT PROPRIETOR OF A TRADE MARK OR TRADE MARKS UPON THE SAME DEVOLUTION OF TITLE

I/We (1) ..... (1) Her full nan trade o busines addres nationa descrip

.....

.....

hereby request that my/our names .....
may be entered in the register of trade marks as proprietor(s) of trade mark(s)

No. .....*(7) in Class ..... * Additi numbe be give signed schedu the bac form

as from the (2) ..... (2) Dat acquisi proprie

I am/we are entitled to the trade mark(s) by virtue of (3) .....

..... (3) Her full par of the instrum assign transm any, or statem case

.....

.....

(4) The trade mark at the time of the assignment was (4) not/used in a business in the goods in question, and the assignment (4) took/did not take place on or after the commencement of the Act otherwise than in connection with the goodwill of a business in the goods, (4) and there is sent herewith a copy of the Registrar's direction to advertise the assignment. (4) Stri any wo applica regulat

Dated this ..... day of ....., 19 .....,

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

(5) ..... (5) Sig

My/Our address for service in Zambia:

.....

.....

.....

NOTE.-The instrument under which the transferee claims should preferably accompany this form.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 18

Section 27
Regulation 74

THE TRADE MARKS ACT

AFFIDAVIT/SOLEMN DECLARATION (ONLY TO BE FURNISHED WHEN REQUESTED BY REGISTRAR) IN SUPPORT OF STATEMENT OF CASE ACCOMPANYING FORM T.M. NO. 16 OR NO. 17

I, ...

of .....

do hereby make*(8) oath and say/solemnly and sincerely declare that the particulars set out in the statement of case, exhibit marked ....., and left by me in connection with my request to be registered as subsequent proprietor of the trade mark No. ..... in Class ....., are true and comprise every material fact and document affecting the present proprietorship of the trade mark.

And I make this affidavit/solemn declaration conscientiously believing the same to be true.

(1) .....

Declared at ....., this ..... day of , 19 .....

Before me (2) .....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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(2) Sig and titl authori before the affidavi declar made

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 19

Section 39
Regulations 81, 85 and 102

THE TRADE MARKS ACT

Fee: 13 or nil

REQUEST FOR ALTERATION OF TRADE OR BUSINESS ADDRESS OR ADDRESS FOR SERVICE IN REGISTER OF TRADE MARKS

IN THE MATTER OF the trade mark(s) No. .....*(9)

registered in Class .....

I/We .....

of .....

being the registered (1) proprietor(s)/user(s) of the trade mark(s) numbered as above,

request that my/our trade address in the register of trade marks be altered to .....

.....

Dated this ..... day of ....., 19 .....,

(2) .....

NOTE.-A registered proprietor or registered user whose address has been altered by a public authority, so that the changed address designates the same premises as before, may make also the statement below in order to avoid payment of the fee.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(For use only in case of an address changed by a public authority, without change of premises)

The change of address, for the entry of which application is made above, was ordered

by (3) .....

.....

.....

on the ..... day of ....., 19 .....

(4) .....

NOTE.-If the above statement be made, and a certificate of the alteration given by the named authority be supplied, the Registrar, if satisfied as to the facts of the case, will not require the payment of a fee with Form T.M. No. 19. (*See* regulation 81.)

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 20

Section 28 (5)
Regulation 61

THE TRADE MARKS ACT

Fee unit: 1

APPLICATION TO THE REGISTRAR UNDER SECTION 28 (5) TO DISSOLVE THE ASSOCIATION BETWEEN A REGISTERED TRADE MARK AND (AN)OTHER REGISTERED TRADE MARK(S)

(To be accompanied by a Statement of Case)

IN THE MATTER OF a trade mark No ..... registered in Class .....

I/We .....

.....

being the registered proprietor(s) of the above-numbered trade mark, hereby apply that the association of this trade mark with the following trade marks registered in my/our name:

No ..... registered in Class .....

No ..... registered in Class .....

may be dissolved and the register amended accordingly.

The grounds for this application are set forth in the accompanying statement of case.

Dated this ..... day of ....., 19 .....,

(1) ..... (1) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 21

Section 39
Regulations 85 and 102

THE TRADE MARKS ACT

Fee: 17, 17 (*a*) or 17 (*b*)

REQUEST FOR CORRECTION OF CLERICAL ERROR; OR FOR PERMISSION TO AMEND APPLICATION

IN THE MATTER OF (1) .....

I/We, being the .....

hereby request that .....

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Dated this ..... day of ....., 19 .....,

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The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 22

Section 39
Regulations 85 and 102

THE TRADE MARKS ACT

Fee:10

REQUEST TO ENTER CHANGE OF NAME OR DESCRIPTION OF REGISTERED PROPRIETOR (OR REGISTERED USER) OF TRADE MARK UPON THE REGISTER

I/We (1) .....
.....
.....
.....

hereby request that my/our name(s) and description(s) may be entered in the

register of trade marks as (2) proprietor(s)/registered user(s) of the trade mark(s)

No .....*(10) registered in Class .....

I am/we are entitled to (2) the said trade mark/use the said trade mark as registered user(s).

There has been no change in the (2) actual proprietorship/identity of the registered

user(s) of the said trade mark, but (3) .....
.....
.....

The entry at present standing in the register gives my/our name(s) and description(s) as

follows .....
.....
.....

Dated this ..... day of ....., 19 .....,

(4) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 23

Section 39 (1)
Regulations 85 and 86

THE TRADE MARKS ACT

Fee unit: 1

APPLICATION BY REGISTERED PROPRIETOR OF TRADE MARK FOR THE CANCELLATION OF ENTRY THEREOF IN REGISTER

IN THE MATTER OF trade mark No .....
Class .....
Name of registered proprietor .....
.....
Trade or business address .....
Description .....
Application is hereby made by .....

of (1) ..... (or by .....
a member of the firm of .....
of (1) .....
on behalf of my said firm) .....
.....
that the entry in the register of trade marks of the trade mark No. .....
in Class ..... may be cancelled.
Dated this ..... day of ....., 19 .....,

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(2) ..... (2) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 24

Section 39 (1)
Regulations 85 and 86

THE TRADE MARKS ACT

Fee:K1

APPLICATION BY REGISTERED PROPRIETOR OF TRADE MARK TO THE REGISTRAR TO STRIKE OUT GOODS FROM THOSE FOR WHICH THE TRADE MARK IS REGISTERED

IN THE MATTER OF trade mark No. ..... registered in Class .....

Name of registered proprietor .....

.....

Trade or business address .....

Description .....

Application is hereby made by .....

of (1) ..... (or by ..... a member of the firm of ..... of (1) ..... on behalf of my said firm) ....

(1) Her the trad busines addres descrip the applica his/thei

for the striking out of (2) ..... from the goods for which the trade mark No ..... is registered in Class .....

Dated this ..... day of ....., 19 .....,

(2) Her designa goods struck

(3) .....

(3) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 25

Section 39 (1)
Regulations 85, 86 and 87

THE TRADE MARKS ACT

Fee units: 4

REQUEST BY A REGISTERED PROPRIETOR OF A TRADE MARK THAT A DISCLAIMER OR MEMORANDUM RELATING THERETO MAY BE REGISTERED

Request is hereby made by (1) ..... (1) Her
of ..... the nar
for the addition to the entry in the register in connection with trade mark trade o
No. ..... in Class ..... of the following busine
..... namely: ..... addres
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..... pro(2)
Dated this ..... day of ....., 19 ....., Signatu

(2) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 26

Section 40
Regulations 89 to 92

THE TRADE MARKS ACT

Fee: 12 or 12 (*a*)

APPLICATION BY REGISTERED PROPRIETOR UNDER SECTION 40 FOR AN ADDITION TO OR ALTERATION OF A REGISTERED TRADE MARK

IN THE MATTER OF the trade mark No. ..... in Class .....

Application is hereby made by (1) .... of ..... being the registered proprietor(s) of the registered trade mark numbered as above, that the

(1) Her name, busines addres descrip

Registrar shall add to it or alter it in the following particulars, that is to say- (2) ....

(2) Her full par

Six copies of the mark as it will appear when so altered are filed herewith.

Dated this ..... day of ....., 19 .....,

(3) .....

(3) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 27

Section 31, 32, 37 or 38
Regulation 82

THE TRADE MARKS ACT

Fee unit: 1

APPLICATION TO THE REGISTRAR FOR THE RECTIFICATION OF THE REGISTER OR THE REMOVAL OF A TRADE MARK FROM THE REGISTER

(To be lodged in duplicate and accompanied by a statement of case in duplicate)

IN THE MATTER OF the trade mark No. .....registered

in the name of .....

in Class .....

I/We (1) ..... (1) Her full nan addres

.....

hereby apply that the entry in the register in respect of the above-mentioned trade mark

may be removed (2) rectified in the following manner ..... (2) Stri the wo that is/ applica

.....

.....

The grounds of my/our application are as follows:

.....

.....

.....

No action concerning the trade mark in question is pending in the Tribunal or the High Court.

Dated this ..... day of ....., 19 .....,

(3) Sig

(3) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 28

Section 31, 32, 37 or 38
Regulation 84

THE TRADE MARKS ACT

Fee unit: 1

APPLICATION TO THE REGISTRAR FOR LEAVE TO INTERVENE IN PROCEEDINGS RELATING TO THE RECTIFICATION OF THE REGISTER OR THE REMOVAL OF A TRADE MARK FROM THE REGISTER

IN THE MATTER OF trade mark No. ..... registered

in the name of .....

in Class .....

I/We (1) ..... (1) Her full nan addres

.....

hereby apply for leave to intervene in the proceedings relating to the rectification or removal of the entry in the register in respect of the above-mentioned trade mark.

My/Our interest in the trade mark is .....

.....

.....

.....

.....

Dated this ..... day of ....., 19 .....,

(2) Sig

(2) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 29

Section 43
Regulations 20 and 113

THE TRADE MARKS ACT

Fee units: 3

1. REQUEST FOR SEARCH

The Registrar is hereby requested under regulation 113 to search in Class* (11)..... * The Registr directic should obtaine class is known

..... in respect of (1) ..... (1) Her specify goods

to ascertain whether any trade marks are on record which resemble the trade mark sent herewith in duplicate (each representation being mounted on a half-sheet of foolscap).

Dated this ..... day of ....., 19 ....., class s respec which t search made

(2) ..... (2) Sig

(3) ..... (3) Adc

2. REQUEST FOR REGISTRAR'S PRELIMINARY ADVICE AS TO DISTINCTIVENESS OR CAPABILITY OF DISTINGUISHING, BY A PERSON PROPOSING TO APPLY FOR THE REGISTRATION OF A TRADE MARK

I/We (4) ..... (4) Her name a addres

.....

.....

hereby request the Registrar to advise me/us whether the trade mark referred to above appears to him *prima facie* to be inherently adapted to distinguish or inherently capable of distinguishing my/our goods above mentioned so as to comply with the requirements of section 14 or 15 respectively of the Act for registrability in Part A or Part B of the register.

Dated this ..... day of ....., 19 .....,

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

(5) Sig

(5) .....

My/Our address for service in Zambia:

.....

.....

.....

NOTE-Request 1 MUST be completed. The fee on the form is K2 if request 2 is not completed, or K3 if both requests are completed.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 30

Section 43
Regulation 20

THE TRADE MARKS ACT

Fee unit: 1

REQUEST FOR REGISTRAR'S PRELIMINARY ADVICE AS TO DISTINCTIVENESS OR CAPABILITY OF DISTINGUISHING, BY A PERSON PROPOSING TO APPLY FOR THE REGISTRATION OF A TRADE MARK

I/We (1) .....
.....
.....

(1) Her
name a
addres

hereby request the Registrar to advise me/us whether the trade mark shown on the accompanying foolscap sheet*(12) appears to him *prima facie* to be inherently adapted to distinguish or inherently capable of distinguishing my/our goods so as to comply with the requirements of section 14 or 15, respectively of the Act for registrability in Part A or Part B of the register.

*To be
duplica

The goods in respect of which I/we propose to apply for registration of the said trade

mark are (2) .....
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Dated this ..... day of ....., 19 .....,

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

(4) Sig

(4) .....

My/Our address for service in Zambia:

.....

.....

.....

NOTE.-If and when an application is made to register the trade mark, objection may arise if identical or resembling trade marks are found on the register. A prior notification of any such relevant marks (if any are to be found) can be obtained by a request to the Registrar made on Form T.M. No. 29.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBI

FORM T.M. NO. 31

Section 51
Regulation 115

THE TRADE MARKS ACT

Fee: Nil

NOTICE TO REGISTRAR THAT NOTICE OF APPEAL HAS BEEN FILED WITH REGISTRAR OF TRIBUNAL

I/We (1) ..... (1) Her full nan addres

.....

hereby give you notice that I/we have this day filed with the registrar of the Tribunal a notice of appeal, a copy of which is attached hereto, together with a copy of my/our grounds of appeal.

Dated this ..... day of ....., 19 .....,

(2) ..... (2) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 32

Section 45
Regulation 111

THE TRADE MARKS ACT

Fee unit: 1

REQUEST FOR GENERAL CERTIFICATE OF THE REGISTRAR (INCLUDING CERTIFICATE OF REGISTRATION OF A TRADE MARK)

IN THE MATTER OF* the trade mark No. ..... registered

in Class *(13)

I/We .....

of .....

hereby request the Registrar to furnish me/us with (2) his certificates that (1) .....

.....

.....

(2) a certificate of registration of the trade mark (2) for use in obtaining registration abroad.

Dated this ..... day of ....., 19 .....,

(3) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

*These may be to suit cases

(1) Her out the particu which t Registr reques certify

(2) Stri words not app

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Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 33

Section 32
Regulation 21 and 37

THE TRADE MARKS ACT

Fee unit: 18

APPLICATION UNDER SECTION 32 FOR REGISTRATION OF AN INVENTED WORD (OR WORDS) IN PART D OF THE REGISTER AS A DEFENSIVE TRADE MARK

One representation to be fixed within this space, and six others to be pinned on to and sent with Form T.M. No. 3.

Application is hereby made for registration in Part D of the register of the above mark as a defensive trade mark in Class .....

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(3) Her
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trading as (4) .....

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(if any)

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who is/are the proprietor(s) of the same trade mark registered in Class (5) .....

in respect of .....

under No. .....

(5) Her
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The particulars of the facts on which I/we rely in support of this application are set forth in the accompanying statement of case (6).

Dated this ..... day of ....., 19 .....,

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(7) Sig

(7) .....

My/Our address for service in Zambia:

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.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 34

Section 42
Regulation 40

THE TRADE MARKS ACT

REGULATIONS FOR GOVERNING THE USE OF CERTIFICATION TRADE MARK

No.

in Class ..... in respect of (1) .....
.....

(1) Her
specify
goods
registra

(For Official Use)

Advertised in *Trade Marks Journal* No. .....

at page ..... on the ..... day of .....

(Date of application and registration ....., 19 .....)

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 35

Section 42
Regulation 94

THE TRADE MARKS ACT

Fee: 19 (*a*)

REQUEST FOR THE CONSENT OF THE REGISTRAR TO ALTERATION OF THE DEPOSITED REGULATIONS FOR USE OF A CERTIFICATE TRADE MARK

Application is hereby made by (1) .....
.....
.....

(1) Her
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who is/are the proprietor(s) of the certification trade mark(s) No. (2) .....*(14)

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registered in Class .....*(15) in respect of (3) .....*(16)

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that the deposited regulations for governing the use of the mark may be altered in the manner shown in red in the accompanying copies (4) of the regulations as proposed to be altered, and for the consent of the Registrar to such alteration.

(4) Thr
copies
be furn

Dated this ..... day of ....., 19 .....,

(5) .....

(5) Sig

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia

*Additional numbers and specifications may be given in a signed schedule on the back of the form.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 36

Section 42
Regulation 93

THE TRADE MARKS ACT

Fee units: 3

APPLICATION TO THE REGISTRAR FOR AN ORDER EXPUNGING OR VARYING AN ENTRY IN THE REGISTER RELATING TO A CERTIFICATION TRADE MARK OR VARYING THE DEPOSITED REGULATIONS

(To be lodged in duplicate together with a statement of case in duplicate)

IN THE MATTER OF certification trade mark No .....

registered in the name of .....

in Class .....

I/We (1) ..... (1) Her full nan addres

.....

being an aggrieved person(s), hereby apply for an order of the Registrar that:

1. (2) The entry in the register in respect of the above-mentioned trade mark may be expunged/varied in the following manner ..... (2) Stri either paragra is not applica

.....

.....

.....

2. (2) The deposited regulations governing the use of the above-mentioned trade mark may be varied in the following manner .....

.....

.....

.....

The grounds of my/our application are as follows: .....

.....

.....

Dated this ..... day of ....., 19 .....,

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(3) ..... (3) Sig

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 37

Section 42
Regulation 58

THE TRADE MARKS ACT

Fee units: 9

NOTICE TO THE REGISTRAR, UNDER PARAGRAPH 2 OF THE SCHEDULE TO THE ACT, OF OPPOSITION TO AN APPLICATION FOR REGISTRATION OF A CERTIFICATION TRADE MARK

(To be lodged in duplicate)

IN THE MATTER OF an application No .....

by .....

of .....

I/We (1) ..... (1) Her full nan addres

.....

hereby give notice of my/our intention to oppose the registration of the certification trade

mark advertised under the above number for Class .....

in the *Trade Marks Journal* of the ..... day of

....., 19 ....., No ..... page .....

The grounds of opposition are as follows: (2) ..... (2) The ground should limited matters referre sub-pa (5) of paragra the Sch to the A

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Dated this ..... day of ....., 19 .....,

(3) ..... (3) Sig

My/Our address for service in Zambia:

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.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 38

Section 42
Regulation 58

THE TRADE MARKS ACT

Fee units: 6

FORM OF COUNTER-STATEMENT IN REPLY TO THE NOTICE TO THE REGISTRAR, UNDER PARAGRAPH 2 OF THE SCHEDULE TO THE ACT, OF OPPOSITION TO AN APPLICATION FOR REGISTRATION OF A CERTIFICATION TRADE MARK

(To be lodged in duplicate)

IN THE MATTER OF an opposition, No ....., to

application for registration of a certification trade mark No .....

I/We .....

the applicant(s) for registration of the above-numbered certification trade mark, hereby give notice that the following are the grounds on which I/we rely as supporting my/our

application: .....

.....

.....

.....

.....

I/We admit the following allegations in the notice of opposition:

.....

.....

Dated this ..... day of ....., 19 .....,

(1) Sig

(1) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 39

Section 42
Regulation 58

THE TRADE MARKS ACT

Fee units: 6

HEARING BY THE REGISTRAR OF AN OPPOSITION, UNDER PARAGRAPH 2 OF THE SCHEDULE TO THE ACT, TO AN APPLICATION FOR REGISTRATION OF A CERTIFICATION TRADE MARK

Notice of Attendance at Hearing

I/We (1) ..... (1) Her name a addres

of .....

.....

hereby give notice that the hearing by the Registrar of the arguments in the case of

opposition No ..... to application No .....

for the registration of a certification trade mark, which, by the Registrar's notice to me/us

dated the ..... day of ....., 19 .....,

is fixed for ..... a.m. or p.m. at the Trade Marks Office on

the ..... day of ....., 19 ....., will be

attended by me/us or by some person on my/our behalf.

Dated this ..... day of ....., 19 .....,

(2) Sig

(2) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 40

Section 27 (5)
Regulation 79

THE TRADE MARKS ACT

Fee units: 6

APPLICATION FOR THE CERTIFICATE OF THE REGISTRAR UNDER SECTION 27 (5) WITH REFERENCE TO A PROPOSED ASSIGNMENT OF A REGISTERED TRADE MARK

(To be accompanied by a statement of case in duplicate and a copy of the proposed assignment.)

IN THE MATTER OF trade mark(s) No.(s) .....

registered in the name of .....

in Class(es) .....

Application is hereby made by (1) .....

.....

.....

of .....

being the registered proprietor(s) of the above-numbered registered trade mark(s), for the Registrar's certificate under section 27 (5) with reference to a proposed assignment of the

registered trade mark(s) No.(s) ..... to (2) .....

.....

of .....

.....

in circumstances that are stated fully in the accompanying statement of case.

Dated this ..... day of ....., 19 .....,

(3) .....

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(2) Her
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The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 41

Section 27 (6)
Regulation 79

THE TRADE MARKS ACT

Fee units: 6

APPLICATION FOR THE APPROVAL BY THE REGISTRAR UNDER SECTION 27 (6) OF A PROPOSED ASSIGNMENT, OR OF A TRANSMISSION (ON OR AFTER THE COMMENCEMENT OF THE ACT), OF A TRADE MARK RESULTING IN EXCLUSIVE RIGHTS IN DIFFERENT PERSONS FOR DIFFERENT PARTS OF ZAMBIA

(To be accompanied by a statement of case in duplicate and a copy of the instrument proposed for the assignment or effecting the transmission)

IN THE MATTER OF a trade mark(s) *registered No.(s) .....

in Class(es) .....*(17), the property of .....

.....

I. Application is hereby made by (1) .....

.....

of .....

the proprietor of the trade mark(s) shown in the accompanying statement of case (2) (registered in his name) and (2) (used by him) in respect of the following goods ..... for the approval by the Registrar of a proposed

assignment of the trade mark(s) to (3) .....

of .....

.....

in respect of the following goods .....

to be sold or otherwise traded in in (4) .....

***(18)[and to (3) .....

of .....

in respect of the following goods .....

to be sold or otherwise traded in in (4).....]

in circumstances that are stated fully in the accompanying statement of case.

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(2) Stri either i applica

(3) Inse the nar trade o busines addres the pro assigne

(4) Inse name c place c in Zam Strike c bracke passag require

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II. (5) .....

of .....

who claims that the trade mark(s) shown in the accompanying statement of case was/were,

in respect of the following goods, namely .....

.....

.....

and on the (6) ..... day of ....., 19 .....

transmitted to (7) him [to (8) .....

..... of .....

..... (who was his predecessor in title)]

by or from (9) .....

of .....

by whom the trade mark was then used in respect of the following goods, namely

.....

all in circumstances that are stated fully in the accompanying statement of case, for the approval by the Registrar of the aforesaid transmission.

Dated this ..... day of ....., 19 .....,

(10) .....

Assignee's address for service in Zambia:

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The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 42

Section 27 (7)
Regulation 80

THE TRADE MARKS ACT

Fee: 8 (*b*)

APPLICATION TO THE REGISTRAR UNDER SECTION 27 (7) FOR DIRECTIONS FOR THE ADVERTISEMENT OF AN ASSIGNMENT OF TRADE MARKS OTHERWISE THAN IN CONNECTION WITH THE GOODWILL OF THE BUSINESS

(1) Her
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(applic

(To be lodged in duplicate)

Application is hereby made by (1) .....

.....

of .....

for the Registrar's directions with respect to the advertisement of assignment to him/them of the following trade marks otherwise than in connection with the goodwill of the

business in which they were used at the time of assignment, namely .....

.....

I. Registered Trade Marks:

*(19)*Registration Number*	*Class*	*Goods in respect of which the mark has been used and is assigned*

all of which are or were registered in the name of (2) .....

.....

of .....

who is the assignor;

(2) Her
the nar
trade o
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II. Unregistered trade marks (3), all being marks used in his business at the time of the assignment in respect of the goods stated below, by (2) .....

.....

of .....
who is the assignor:

*Representation of mark	*Goods in respect of which the mark has been used and is assigned*

The date of assignment was the ..... day of , 19 .....

The instrument effecting the assignment is sent herewith, together with a copy thereof.

It is suggested that advertisement shall be directed as follows, namely, in .....

.....

Dated this ..... day of ....., 19 .....,

(4) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 43

Section 27 (7)
Regulation 80

THE TRADE MARKS ACT

Fee: 8 (*c*)

APPLICATION FOR EXTENSION OF TIME IN WHICH TO APPLY FOR THE REGISTRAR'S DIRECTIONS FOR THE ADVERTISEMENT OF AN ASSIGNMENT OF TRADE MARKS OTHERWISE THAN IN CONNECTION WITH THE GOODWILL OF THE BUSINESS

Application is hereby made by (1) .....
.....
of .....

(1) Her
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for extension of time of (2) ..... month(s) in which to apply for the Registrar's directions for the advertisement of an assignment to him/them of the following trade marks otherwise than in connection with the goodwill of the business in which they were used at the time of assignment, namely:

(2) Her
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or "thre

I. Registered Trade Marks:

**Registration Number*	*Class*	*Goods in respect of which the mark has been used and is assigned*

all of which are or were registered in the name of (3) .....
.....
of .....
who is the assignor;

(3) Her
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II. Unregistered trade marks, all being marks used in his business at the time of assignment and in respect of the goods stated below, by (3) .....
.....
of .....
who is the assignor:

**Registration Number*	*Goods in respect of which the mark has been used and is assigned*

The date of assignment was the ..... day of ....., 19 .....
Dated this ..... day of ....., 19 .....

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(4) Sig

(4) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 44

Sections 23 and 40
Regulation 42 and 45

THE TRADE MARKS ACT

GENERAL FORM OF ADVERTISEMENT

Notice is hereby given that in terms of .....

.....

.....

.....

.....

Dated this ..... day of ....., 19 .....,

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The Laws of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 45

Section 41
Regulation 6

THE TRADE MARKS ACT

RECLASSIFICATION

APPLICATION TO THE REGISTRAR BY THE PROPRIETOR OF A REGISTERED TRADE MARK FOR THE CONVERSION OF THE SPECIFICATION FROM THE THIRD SCHEDULE TO THE FOURTH SCHEDULE OF THE TRADE MARKS REGULATIONS

IN THE MATTER OF a trade mark No. ..... registered

in the name of .....

in Class of the Third Schedule.

Application is hereby made by (1) .....

.....

the registered proprietor of the above-numbered trade mark, for the conversion of the specification of the above-mentioned registration (2) and the **specification(s) of the registered user(s) thereunder** from the Third Schedule to the Fourth Schedule of the Trade Marks Regulations.

The specification(s) entered in the register in accordance with the Third Schedule is/are:

.....

.....

Application is made that the Registrar should propose the following specification(s) in accordance with the Fourth Schedule upon conversion:

Class .....

Class .....

Dated this ..... day of ....., 19 .....,

(3) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 46

Section 41 (3)
Regulation 7

THE TRADE MARKS ACT

RECLASSIFICATION

NOTICE OF OPPOSITION TO PROPOSAL FOR CONVERSION OF SPECIFICATION

(To be lodged in duplicate together with a statement, in duplicate, showing how the proposed conversion would be contrary to section 41 (2))

IN THE MATTER OF the *(20)trade mark(s) No.(s) .....

registered in the name of .....

in Class ..... of the Third Schedule of the Regulations.

I/We (1) ..... (1) Her full nan addres

.....

hereby give notice of my/our intention to oppose the proposal for the conversion of the specification(s) of the trade mark(s), advertised in the *Trade Marks Journal*

of the ..... day of ....., 19 .....

No. ..... page .....

The grounds of opposition are as follows:

.....

.....

Dated this ..... day of ....., 19 .....,

(2) Sig

(2) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

*The numbers of more than one trade mark dealth with by the same proposal may be given perovided the specifications are the same.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 47

Section 40
Regulation 90

THE TRADE MARKS ACT

Fee Units: 2

NOTICE OF OPPOSITION TO APPLICATION UNDER SECTION 40 FOR ADDITION TO OR ALTERATION OF A REGISTERED TRADE MARK

(To be lodged in duplicate)

IN THE MATTER OF the trade mark No. .....

registered in the name of .....

in Class .....

I/We (1) ..... (1) Her full nan addres

.....

hereby give notice of my/our intention to oppose the addition to or alteration of the trade mark numbered and registered as above, so that it shall be in the form shown in the application advertised in the *Trade Marks Journal* of the .....day of ....., 19 ....., No. ..... page .....

The grounds of opposition are as follows:

.....

.....

Dated this ..... day of ....., 19 .....,

(2) ..... (2) Sig

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 48

Sections 51 and 59
Regulation 117

THE TRADE MARKS ACT

Fee Units: 6

NOTICE OF ORDER OF HIGH COURT OR TRIBUNAL FOR ALTERATION OR RECTIFICATION OF REGISTER OF TRADE MARKS

IN THE MATTER OF the trade mark No .....

registered in Class ..... in the name

of .....

Notice is hereby given to the Registrar that, by an order of the High Court/Tribunal

made on the ..... day of

....., 19 ..... it was directed that

.....

.....

.....

A certified copy of the order of the High Court/Tribunal is enclosed herewith.

Dated this ..... day of ....., 19 .....,

(1) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(1) To b
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REPUBLIC OF ZAMBIA

FORM T.M. NO. 49

Section 58
Regulation 88

THE TRADE MARKS ACT

Fee: 7

REQUEST TO THE REGISTRAR FOR ENTRY IN THE REGISTER AND ADVERTISEMENT OF A NOTE OF A CERTIFICATE OF VALIDITY BY THE HIGH COURT OR TRIBUNAL

IN THE MATTER OF trade mark(s) No.(s) .....

registered in Class ..... in the name of .....

.....

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I/We (1) .....

.....

hereby request the Registrar to add to the above-numbered entry/entries of a trade mark in

the register, and to advertise in the *Trade Marks Journal* a note that in (2) .....

.....

the High Court/Tribunal certified that the validity of the said registration(s) came into question and was decided in favour of the proprietor of the trade mark in the terms of the accompanying certificate of validity.

Dated this ..... day of ....., 19 .....,

(3) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 50

Section 33 (4)
Regulation 96

THE TRADE MARKS ACT

Fee: 6 or 6 (*a*)

APPLICATION FOR REGISTRATION USER

(To be accompanied by a statement of case giving particulars and stating as required by section 33 (4), verified by an affidavit or solemn declaration made by the proprietor, or by some person authorised to act on his behalf and approved by the Registrar.)

Application is hereby made by (1) .....
.....
.....
.....

who is/are the registered proprietor(s) of trade mark(s) No.(s)*(21) .....

..... registered in Class ..... in respect of (2)
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Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

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.....

(4) Her the full busines addres propos registe

trading as (5) .....
.....

(5) Her trading any)

who hereby joins in the application, may be registered as a registered user of the above-numbered registered trade mark(s) in respect of (6) .....
.....
.....
.....
subject to the following conditions or restrictions:

(6) Her designa goods must b compri within t specifi

(7) .....
.....
.....

(7) Wri if there conditi restrict

(8) The proposed permitted use is to end on the ..... day of ....., 19 ...../The proposed permitted use is without limit of period.

Dated this ..... day of ....., 19 .....,

(8) Stri the wo are not applica

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(9) ..... (9) Sig

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 51

Section 33 (8) (*a*)
Regulation 98

THE TRADE MARKS ACT

Fee: 6 (*b*) or 6 (*c*)

APPLICATION BY THE REGISTERED PROPRIETOR OF A TRADE MARK FOR VARIATION OF THE REGISTRATION OF A REGISTERED USER THEREOF WITH REGARD TO THE GOODS OR THE CONDITIONS OR RESTRICTIONS

(To be accompanied by a statement of the grounds for the application and the written consent (if given) of the registered user)

Application is hereby made by (1) .....
.....
.....

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as a registered user of the above-numbered trade mark(s) in respect of (4) .....
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may be varied in the following manner: (5) .....

.....

.....

Dated this ..... day of ....., 19 .....,

(6) .....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 52

Section 33 (8) (*b*)
Regulation 99

THE TRADE MARKS ACT

Fee: 6 (*d*) or 6 (*e*)

APPLICATION BY THE REGISTERED PROPRIETOR OF A TRADE MARK OR BY ANY OF THE REGISTERED USERS OF THE TRADE MARK FOR THE CANCELLATION OF ENTRY OF A REGISTERED USER THEREOF

(To be accompanied by a statement of the grounds for the application)

Application is hereby made by (1) .....
.....
.....

being (2) the registered proprietor/registered user of trade mark(s) No.(s)*(23) .....
.....

registered in Class ..... in respect of (3) .....
.....
.....

for cancellation of the entry under the above-mentioned registration(s) of (4) .....
.....
.....

as a registered user of the trade mark(s) in respect of (5) .....
.....
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The grounds for this application are set forth in the accompanying statement.

Dated this ..... day of ....., 19 .....,

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

(6) ..... (6)
..... Signatu
.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Copyright Ministry of Legal Affairs, Government of the Republic of Zambia

The Laws of Zambia

REPUBLIC OF ZAMBIA

FORM T.M. NO. 53

Section 33 (8) (*c*)
Regulation 100

THE TRADE MARKS ACT

Fee: 6 (*f*) or 6 (*g*)

APPLICATION FOR CANCELLATION OF ENTRY OF A REGISTERED USER OF A TRADE MARK

(To be accompanied by a statement of the grounds for the application)

IN THE MATTER OF trade mark(s) No.(s) *(24) .....

registered in Class ..... in the name of (1) .....

.....

.....

Application is hereby made by (2) .....

for the cancellation of the entry under the above-mentioned registration(s) of (3) .....

.....

.....

as the registered user in respect of (4) .....

.....

.....

The grounds of this application, particulars of which are given in detail in the

accompanying statement of case, are (5) .....

.....

.....

Dated this ..... day of ....., 19 .....,

(6) .....

My/Our address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

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REPUBLIC OF ZAMBIA

FORM T.M. NO. 54

Section 33 (9)
Regulation 101

THE TRADE MARKS ACT

Fee units: 8

NOTICE TO THE REGISTRAR UNDER SECTION 33 (9) OF INTENTION TO INTERVENE IN PROCEEDINGS FOR THE VARIATION OR CANCELLATION OF AN ENTRY OF A REGISTERED USER OF A TRADE MARK

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(To be accompanied by a statement of the grounds for intervention)

IN THE MATTER OF a trade mark No ..... registered in Class ..... in the name of (1) .....

.....

and

IN THE MATTER OF a registration of (2) .....

.....

thereunder as a registered user of the mark.

(2) Inse
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In reply to the Registrar's notification, dated the ..... day of ....., 19 ....., notice is hereby given of my intention to intervene in the proceedings in the above matter.

Dated this ..... day of ....., 19 .....,

(3) .....

(3) Sig

My address for service in Zambia:

.....

.....

.....

The Registrar,
The Trade Marks Office,
Lusaka, Zambia.

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THIRD SCHEDULE
(Regulation 5)

CLASSIFICATION OF GOODS

Class 1

Chemical substXances used in manufacturers, photography, or philosophical research, and anti-corrosives.

Class 2

Chemical substances used for agrivultural, horticultural, veterinary, and sanitary purposes.

Class 3

Chemical subXstances prepared for use in medicine and pharmacy.

Class 4

Raw, or party prepared, vegetable, animal, and mineral substances used in manufactures, not included in other Classes.

Class 5

Unwrought and partly wrought metals used in manufacture.

Class 6

Machinery of all kinds, and parts of machinery, except, agricultural and horticultural machinesX and their parts included in Class 7.X

Class 7

Agricultural and horticulturalX machinery, and parts of such machinery.

Class 8

Philosophical instruments, scientific instruments and apparatus for useful purposes; instruments and apparatus for teaching.

Class 9

Musical instruments.

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Class 10

Horological instruments.

Class 11

Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals.

Class 12

Cutlery and edge tools.

Class 13

Metal goods, not included in other Classes.

Class 14

Goods of precious metals and jewellery, and imitations of such goods and jewellery.

Class 15

Glass.

Class 16

Porcelain and earthenware.

Class 17

Manufacturing from mineral and other substances for building or decoration.

Class 18

Engineering, architectural, and building contrivances.

Class 19

Arms, ammunition, and stores not included in Class 20.

Class 20

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Explosive substances.

Class 21

Naval architectural contrivances and naval equipments not included in other Classes.

Class 22

Carriages.

Class 23

(*a*) Cotton yarn.

(*b*) Sewing cotton.

Class 24

Cotton piece goods.

Class 25

Cotton goods not included in other Classes.

Class 26

Linen and hemp yarn and thread.

Class 27

Linen and hemp piece goods.

Class 28

Linen and hemp goods not included in other Classes.

Class 29

Jute yarns and tissues, and other articles made of jute, not included in other Classes.

Class 30

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Silk, spun, thrown, or sewing.

Class 31

Silk piece goods.

Class 32

Silk goods not included in other Classes.

Class 33

Yarns of wool, worsted, or hair.

Class 34

Cloths ans stuffs of wool, worsted, or hair.

Class 35

Wollen and worsted and hair goods, not included in other Classes.

Class 36

Carpets, floorcloth and oilcolth.

Class 37

Leather, skins unwrought and wrought, and articles made of leather not included in other Classes.

Class 38

Articles of clothing.

Class 39

Paper (except paper hangings), stationery and bookbinding.

Class 40

Goods manufactured from india-rubber and gutta-percha not included in other Classes.

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Class 41

Furniture and upholstery.

Class 42

Substances used as food or as ingredients in food.

Class 43

Fermented liquors and spirits.

Class 44

Mineral and aerated waters, natural and artivicial, including ginger beer.

Class 45

Tobacco, whether manufactured or unmanufactured.

Class 46

Seeds for agricultural and horticultural purposes.

Class 47

Candles, common soap, detergents; illuminating, heating, or lubricating oils; matches; and starch, blue and other preparations for laundry purposes.

Class 48

Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).

Class 49

Games of all kinds and sporting articles not included in other Classes.

Class 50

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Miscellaneous:

(1) Goods manufactured from ivory, bone or wood, not included in other Classes.

(2) Goods manufactured from straw or grass, not included in other Classes.

(3) Goods manufactured from animal and vegetable substances, not included in other Classes.

(4) Tobacco pipes.

(5) Umbrellas, walking-sticks, brushes and combs for the hair.

(6) Furniture cream, place powder.

(7) Tarpaulins, tents, tick-cloths, rope (jute or hemp), twine.

(8) buttons of all kinds other than of precious metal or imitations thereof.

(9) Packing and hose.

(10) Other goods not included in the foregoing Classes.

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FOURTH SCHEDULE
(*Regulation* 5)

CLASSIFICATION OF GOODS

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NAMES OF THE CLASSES

[Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other Classes.]

1. Chemical products used in industry, science, photography, agriculture, horticulture, forestry; ,manures (natural and artificial); fire-extinguishing compositions, tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry.

2. Paints, varnishes, lacquers; preservatives, against rust and against deterioration of wood; colouring matters, dyestuffs; mordants; resins; metals in foil and power form for painters and decorators.

3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

4. Industrial oils and greases (other tha edible oils and fats and essential oils); lubricants; dust-laying and absorbing compositions; fuels (including motor spirit) and illuminants; candles, tapers, nightlights and wicks.

5. Pharmaceutical, veterninary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax; disinfectants; preparations for killing weeds and destroying vermin.

6. Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains (except driving chains for vehicles); cables and wires (non-electric); locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in non-precious metal not included in other Classes; ores.

7. Machines and machine tools, motors (except for vehicles); machine couplings and belting (except for vehicles); large-size agricultural implements; incubators.

8. Hand tools and instruments; cultery, forks and spoons; side arms.

9. Scientific, nautical, surveying and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; coin or counter-freed apparatus; talking machines; cash registers; calculting machines; fire-extinguishing apparatus.

10. Surgical, medical, dental and veterinary instruments and apparatus (including artificial limbs, eyes and teeth).

11. Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosive substances; fireworks.

14. Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery, precious stones; horological and other chronometric instruments.

15. Musical instruments (other than talking machines and wireless apparatus).

16. Paper and paper articles, cardboard anc cupboard articles; printed matter, newspaper and periodicals, books; bookbinding material; photographs; stationery, adhesive materials (stationery); artists'materials; paint brushes, typewriters and office requires (other than furniture); instructional and teachinf material (other than apparatus); playing cards; (printers') type and cliches (sterotype).

17. Gutta-percha, india-rubber, balata and substitutes, articles made from these substances and not included in other Classes; materials for packing, stopping or insulating; asbestos, mica and their products; hose pipes (non-metallic); plastics in the form of sheets, blocks, rods and tubes, being for use in manufactures.

18. Leather and imitations of leather, and articles made from these materials, and not included in other Classes; skins, hides, trunks and travelling bags; umbrellas, parasols and walking-sticks; whips, harness and saddlery.

19. Building materials, natural and artificial, stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road-making materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.

20. Furniture, mirrors, picture frames; articles (not included in ohter Classes) of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-prarl, meerschaum, celluloid, and substitutes for all these materials.

21. Small domestic utensils and containers (not of precious metal, nor coated thereith); combs and sponges; brushes (other than paint brushes); brushmaking materials; instruments and material for cleaning purposes; steelwool, glassware, porcelain and earthenware not included in other Classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks, padding and stuffing materials (hair, kapok, feathers, seaweed, etc.); raw fibrous textile materials.

23. Yarns, threads.

24. Tissues (piece goods); bed and table covers; textile articles not included in other Classes.

25. Clothing, including boots, shoes and slippers.

26. Lace and embroidery, ribands and braid; buttons, press buttons, hooks and eyes, pins and needles; artificial

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SECTION 33-THE TRADE MARKS (APPEALS) RULES

1. These Rules may be cited as the Trade Marks (Appeals) Rules.

2. Subject to any specific provisions of the Act, the High Court (Appeals) (General) Rules, 1984, shall apply to any appeal to the High Court brought pursuant to the provisions of the Act.

3. Subject to any specific provisions of the Act, the Supreme Court Rules shall apply to any appeal to the Supreme Court brought pursuant to the provisions of the Act.

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Endnotes

1 (Popup - Popup)
Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)

2 (Popup - Popup)
Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

3 (Popup - Popup)
Write distinctly here "A" or ""B" accirdubg ti tge regustratuib desired

4 (Popup - Popup)
If the fee is left by the proprietor himself, this passage should be be struck out

5 (Popup - Popup)
If the fee is left by the proprietor himself, this passage should be be struck out

6 (Popup - Popup)
Additional numbers may be given in a signed schedule on the back of the form

7 (Popup - Popup)
Additional numbers may be given in a signed schedule on the back of the form

8 (Popup - Popup)
Strike out whichever is inapplicable

9 (Popup - Popup)
Additional numbers may be given in a signed schedule on the back of the form

10 (Popup - Popup)
Additional numbers may be given on a signed schedule on the back of the form

11 (Popup - Popup)
The Registrar's direction should be obtained if the class is not known

12 (Popup - Popup)
To be sent in duplicate

13 (Popup - Popup)
These words may be varied to suit other cases

14 (Popup - Popup)
Additional numbers and specifications may be given in a signed schedule on the back of the form

15 (Popup - Popup)
Additional numbers and specifications may be given in a signed schedule on the back of the form

16 (Popup - Popup)
Additional numbers and specifications may be given in a signed schedule on the back of the form

17 (Popup - Popup)
To be struck out in the case of unregistered trade marks

18 (Popup - Popup)
Strike out the bracketed passage if not required

19 (Popup - Popup)
Representation of mark

20 (Popup - Popup)
The numbers of more than one trade mark dealth with by the same proposal may be given perovided the specifications are the same.

21 (Popup - Popup)
Additional numbers may be given in a signed schedule on the back of the form

22 (Popup - Popup)
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23 (Popup - Popup)
Additional numbers may be given in a signed schedule on the back of the form

24 (Popup - Popup)

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Additional numbers may be given in a signed schedule on the back of the form

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