THE STATUTES OF THE REPUBLIC OF SINGAPORE

TRADE MARKS ACT 1998

2020 REVISED EDITION

This revised edition incorporates all amendments up to and
including 1 December 2021 and comes into operation on 31 December 2021.

Prepared and Published by

THE LAW REVISION COMMISSION
UNDER THE AUTHORITY OF
THE REVISED EDITION OF THE LAWS ACT 1983

Informal Consolidation – version in force from 9/3/2025

Trade Marks Act 1998

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An Act to establish a new law for trade marks, to enable Singapore to give effect to certain international conventions on intellectual property and for matters connected therewith.

[15 January 1999: Except section 54 ;
31 October 2000: Section 54]

PART 1

PRELIMINARY

Short title

1. This Act is the Trade Marks Act 1998.

General interpretation

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

"business" includes a trade or profession;

"business identifier" means any sign capable of being represented graphically which is used to identify any business;

"certification mark" has the meaning given by section 61;

"collective mark" has the meaning given by section 60;

"Convention country" means —

(*a*) in section 10 and paragraph 13 of the Third Schedule, a country or territory, other than Singapore, which is —

(i) a party to the Paris Convention; or

(ii) a member of the World Trade Organisation; and

(*b*) in any other provision of this Act, a country or territory which is —

(i) a party to the Paris Convention; or

(ii) a member of the World Trade Organisation;

"Court" means the General Division of the High Court;

"dilution", in relation to a trade mark, means the lessening of the capacity of the trade mark to identify and distinguish goods or services, regardless of whether there is —

(*a*) any competition between the proprietor of the trade mark and any other party; or

(*b*) any likelihood of confusion on the part of the public;

"earlier trade mark" means —

(*a*) a registered trade mark or an international trade mark (Singapore), the application for registration of which was made earlier than the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks; or

(*b*) a trade mark which, at the date of application for registration of the trade mark in question or (where appropriate) of the priority claimed in respect of the application, was a well known trade mark,

and includes a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of paragraph (*a*) subject to its being so registered;

"geographical indication" has the meaning given by section 2 of the Geographical Indications Act 2014;

"International Bureau" has the meaning given by Article 2(1) of the Madrid Protocol;

"international trade mark (Singapore)" means a trade mark which is entitled to protection in Singapore under the Madrid Protocol, or a trade mark prescribed by the Minister (by rules made under section 54) as an international trade mark (Singapore);

"Madrid Protocol" means the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, adopted at Madrid on 27 June 1989, as revised or amended from time to time;

"Office" means the Intellectual Property Office of Singapore incorporated under the Intellectual Property Office of Singapore Act 2001;

"Paris Convention" means the Convention for the Protection of Industrial Property signed at Paris on 20 March 1883, as revised or amended from time to time;

"proprietor" means —

(*a*) in relation to a registered trade mark — the person in whose name the trade mark is registered; or

(*b*) in relation to an unregistered trade mark that is a well known trade mark — the person to whom the trade mark belongs;

"register" means the register of trade marks maintained by the Registrar under section 66;

"Registrar" means the Registrar of Trade Marks mentioned in section 62 and includes any Deputy Registrar of Trade Marks mentioned in that section;

"Registry" means the Registry of Trade Marks established under section 64;

"repealed Act" means the Trade Marks Act (Cap. 332, 1992 Revised Edition) repealed by the Trade Marks Act 1998 (Act 46 of 1998, revised as Cap. 332, 1999 Revised Edition);

"sign" includes any letter, word, name, signature, numeral, device, brand, heading, label, ticket, shape, colour, aspect of packaging or any combination thereof;

"trade" includes any business or profession;

"trade mark" means any sign capable of being represented graphically and which is capable of distinguishing goods or services dealt with or provided in the course of trade by a person from goods or services so dealt with or provided by any other person;

"TRIPS Agreement" means the Agreement on Trade-Related Aspects of Intellectual Property Rights, set out in Annex 1C to the WTO Agreement, as revised or amended from time to time;

"well known trade mark" means —

(*a*) any registered trade mark that is well known in Singapore; or

(*b*) any unregistered trade mark that is well known in Singapore and that belongs to a person who —

(i) is a national of a Convention country; or

(ii) is domiciled in, or has a real and effective industrial or commercial establishment in, a Convention country,

whether or not that person carries on business, or has any goodwill, in Singapore;

"WTO Agreement" means the World Trade Organisation Agreement signed in Marrakesh in 1994 as revised or amended from time to time.

[42/2005; 16/2012; 19/2014; 40/2019]

(2) References in this Act to a trade mark include any trade mark which relates to a service that is ancillary to goods or services dealt with or provided in the course of trade by a person, whether or not the service is provided for money or money's worth.

(3) References in this Act to a trade mark include, unless the context otherwise requires, a collective mark or certification mark.

(4) References in this Act to use (or any particular description of use) of a trade mark, or of a sign identical with, similar to, or likely to be mistaken for a trade mark, include use (or that description of use) otherwise than by means of a graphic representation.

(5) References in this Act to registration (in particular, in the expression "registered trade mark") are, unless the context otherwise requires, to registration in the register.

(6) In this Act, a sign is taken to be applied to goods, material or any other thing if it is woven in, impressed on, worked into, or affixed or annexed to, the goods, material or thing.

(7) Subject to subsection (8), in deciding, for the purposes of this Act, whether a trade mark is well known in Singapore, it is relevant to take into account any matter from which it may be inferred that the trade mark is well known, including such of the following matters as may be relevant:

(*a*) the degree to which the trade mark is known to or recognised by any relevant sector of the public in Singapore;

(*b*) the duration, extent and geographical area of —

(i) any use of the trade mark; or

(ii) any promotion of the trade mark, including any advertising of, any publicity given to, or any presentation at any fair or exhibition of, the goods or services to which the trade mark is applied;

(*c*) any registration or application for the registration of the trade mark in any country or territory in which the trade mark is used or recognised, and the duration of such registration or application;

(*d*) any successful enforcement of any right in the trade mark in any country or territory, and the extent to which the trade mark was recognised as well known by the competent authorities of that country or territory;

(*e*) any value associated with the trade mark.

(8) Where it is determined that a trade mark is well known to any relevant sector of the public in Singapore, the trade mark is deemed to be well known in Singapore.

(9) In subsections (7) and (8), "relevant sector of the public in Singapore" includes any of the following:

(*a*) all actual consumers and potential consumers in Singapore of the goods or services to which the trade mark is applied;

(*b*) all persons in Singapore involved in the distribution of the goods or services to which the trade mark is applied;

(*c*) all businesses and bodies corporate in Singapore dealing in the goods or services to which the trade mark is applied.

[Act 7 of 2022 wef 26/05/2022]

Meaning of infringing goods, material or articles and counterfeit goods or trade mark

3.—(1) For the purposes of this Act —

(*a*) "infringing goods", "infringing material" and "infringing articles" are to be construed in accordance with subsections (2), (3) and (4), respectively; and

(*b*) "counterfeit goods" and "counterfeit trade mark" are to be construed in accordance with subsections (5) and (6), respectively.

(2) Goods are "infringing goods", in relation to a registered trade mark, if they or their packaging bears a sign identical with or similar to that mark and —

(*a*) the application of the sign to the goods or their packaging was an infringement of the registered trade mark;

(*b*) the goods are proposed to be imported into Singapore and the application of the sign in Singapore to them or their packaging would be an infringement of the registered trade mark; or

(*c*) the sign has otherwise been used in relation to the goods in such a way as to infringe the registered trade mark.

(3) Material is "infringing material", in relation to a registered trade mark, if it bears a sign identical with or similar to that mark and either —

(*a*) it is used for labelling or packaging goods, as a business paper, or for advertising goods or services, in such a way as to infringe the registered trade mark; or

(*b*) it is intended to be so used and such use would infringe the registered trade mark.

(4) "Infringing articles", in relation to a registered trade mark, means articles —

(*a*) which are used for making copies of a sign identical with or similar to that mark; and

(*b*) which a person has in the person's possession, custody or control, knowing or having reason to believe that they have been or are to be used to produce infringing goods or material.

(5) Goods are "counterfeit goods", in relation to a registered trade mark, if —

(*a*) they are infringing goods in relation to that mark; and

(*b*) the sign borne by them or their packaging is a counterfeit trade mark.

(6) A sign is a "counterfeit trade mark", in relation to a registered trade mark, if the sign —

(*a*) is identical with or so nearly resembling the registered trade mark as to be calculated to deceive; and

(*b*) is applied to goods or services —

(i) without the express or implied consent (conditional or otherwise) of the proprietor of the registered trade mark; and

(ii) to falsely represent the goods or services to be the genuine goods or actual services of the proprietor or a licensee of the registered trade mark.

PART 2

REGISTRATION OF TRADE MARKS

Introductory

Registered trade marks

4.—(1) A registered trade mark is a property right obtained by the registration of the trade mark under this Act and the proprietor of a

registered trade mark has the rights and remedies provided by this Act.

(2) No proceedings shall lie to prevent or recover damages for the infringement of an unregistered trade mark as such; but nothing in this Act affects the law relating to passing off or rights under the Geographical Indications Act 2014.

[19/2014]

Application for registration of trade mark

Application for registration

5.—(1) An application for registration of a trade mark must be made in the prescribed manner to the Registrar.

(2) The application must —

(*a*) contain a request for the registration of a trade mark;

(*b*) state the name and address of the applicant;

(*c*) contain a clear representation of the trade mark;

(*d*) list the goods or services in relation to which the applicant seeks to register the trade mark; and

(*e*) state —

(i) that the trade mark is being used in the course of trade, by the applicant or with the applicant's consent, in relation to those goods or services; or

(ii) that the applicant has a bona fide intention that the trade mark should be so used.

(3) The application is subject to the payment of the application fee and such other fees as may be appropriate.

(4) The date of the application for registration of the trade mark is the earliest date on which —

(*a*) all the requirements under subsection (2) have been satisfied; and

(*b*) all the fees payable under subsection (3) —

(i) have been paid; or

(ii) are treated by the Registrar as paid.

Division of application for registration

5A.—(1) Subject to this section and any rules made under subsection (3), an application for registration of a trade mark may, at the request of the applicant, be divided into 2 or more separate applications for registration of the trade mark.

[3/2007]

(2) A request under subsection (1) —

(*a*) must be made to the Registrar —

(i) in the prescribed manner; and

(ii) before the trade mark is registered; and

(*b*) is subject to the payment of such fee as may be prescribed.

[3/2007]

(3) The Minister may make rules for the purposes of this section and may, in those rules, provide for —

(*a*) the circumstances in which an application for registration of a trade mark may be divided;

(*b*) the conditions to be satisfied before a request under subsection (1) may be granted by the Registrar; and

(*c*) the effect of dividing an application for registration of a trade mark into 2 or more separate applications for registration of the trade mark.

[3/2007]

Classification of goods and services

6.—(1) Goods and services must be classified, for the purposes of the registration of trade marks, according to a prescribed system of classification.

(2) Any question arising as to the class within which any goods or services fall is to be determined by the Registrar, whose decision is final.

Grounds for refusal of registration

Absolute grounds for refusal of registration

7.—(1) The following must not be registered:

(*a*) signs which do not satisfy the definition of a trade mark in section 2(1);

(*b*) trade marks which are devoid of any distinctive character;

(*c*) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services; and

(*d*) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade.

(2) A trade mark must not be refused registration by virtue of subsection (1)(*b*), (*c*) or (*d*) if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.

(3) A sign must not be registered as a trade mark if it consists exclusively of —

(*a*) the shape which results from the nature of the goods themselves;

(*b*) the shape of goods which is necessary to obtain a technical result; or

(*c*) the shape which gives substantial value to the goods.

(4) A trade mark must not be registered if it is —

(*a*) contrary to public policy or to morality; or

(*b*) of such a nature as to deceive the public (for instance as to the nature, quality or geographical origin of the goods or service).

(5) A trade mark must not be registered if or to the extent that its use is prohibited in Singapore by any written law or rule of law.

(6) A trade mark must not be registered if or to the extent that the application is made in bad faith.

(7) Despite subsection (2), a trade mark must not be registered if it contains or consists of a geographical indication in respect of a wine or spirit and the trade mark is used or intended to be used in relation to a wine or spirit not originating from the place indicated in the geographical indication.

(8) Subsection (7) applies whether or not the trade mark has, or is accompanied by, an indication of the true geographical origin of the wine or spirit (as the case may be) or an expression such as "kind", "type", "style", "imitation" or the like, and irrespective of the language the geographical indication is expressed in that trade mark.

(9) A trade mark must not be refused registration by virtue of subsection (7) if the application for its registration had been made in good faith, or if it had been used continuously in good faith in the course of trade by the applicant for its registration or the applicant's predecessor in title, either —

(*a*) before 15 January 1999; or

(*b*) before the geographical indication in question is protected in its country of origin.

(10) A trade mark must not be refused registration by virtue of subsection (7) if the geographical indication in question —

(*a*) has ceased to be protected; or

(*b*) has fallen into disuse,

in its country of origin.

(11) Despite subsection (2), a trade mark must not be registered if —

(*a*) it contains or consists of a geographical indication which is registered, or in respect of which an application for registration has been made, under the Geographical

Indications Act 2014 before the date of the application for registration of the trade mark; and

(*b*) the goods for which the trade mark is sought to be registered —

(i) are identical or similar to the goods for which the geographical indication is registered or for which registration of the geographical indication is sought; and

(ii) do not originate in the place indicated by the geographical indication.

[19/2014]

(12) Subsection (11) applies whether or not the trade mark has, or is accompanied by, an indication of the true geographical origin of the goods, or an expression such as "kind", "type", "style", "imitation" or the like, and irrespective of the language the geographical indication is expressed in that trade mark.

[19/2014]

(13) A trade mark must not be refused registration by virtue of subsection (11) if the application for its registration had been made in good faith, or if it had been used continuously in good faith in the course of trade by the applicant for its registration or the applicant's predecessor in title, either —

(*a*) before the date of the application for registration of the geographical indication in question in Singapore; or

(*b*) before the geographical indication in question became protected in its country of origin.

[19/2014]

(14) A trade mark must not be registered in the cases specified in sections 56 and 57.

(15) The Minister may make rules to provide that a sign specified in the rules must not be registered as a trade mark, or must not be so registered unless such conditions as may be prescribed are met.

(16) A trade mark must not be registered if or to the extent that the registration contravenes any rule made under subsection (15).

Relative grounds for refusal of registration

8.—(1) A trade mark must not be registered if it is identical with an earlier trade mark and the goods or services for which the trade mark is sought to be registered are identical with the goods or services for which the earlier trade mark is protected.

(2) A trade mark must not be registered if, because —

(*a*) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected; or

(*b*) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public.

(3) Where an application for registration of a trade mark is made before 1 July 2004, if the trade mark —

(*a*) is identical with or similar to an earlier trade mark; and

(*b*) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,

the later trade mark must not be registered if —

(*c*) the earlier trade mark is well known in Singapore;

(*d*) use of the later trade mark in relation to the goods or services for which the later trade mark is sought to be registered would indicate a connection between those goods or services and the proprietor of the earlier trade mark;

(*e*) there exists a likelihood of confusion on the part of the public because of such use; and

(*f*) the interests of the proprietor of the earlier trade mark are likely to be damaged by such use.

(4) Subject to subsection (5), where an application for registration of a trade mark is made on or after 1 July 2004, if the whole or an

essential part of the trade mark is identical with or similar to an earlier trade mark, the later trade mark must not be registered if —

(*a*) the earlier trade mark is well known in Singapore; and

(*b*) use of the later trade mark in relation to the goods or services for which the later trade mark is sought to be registered —

(i) would indicate a connection between those goods or services and the proprietor of the earlier trade mark, and is likely to damage the interests of the proprietor of the earlier trade mark; or

(ii) if the earlier trade mark is well known to the public at large in Singapore —

(A) would cause dilution in an unfair manner of the distinctive character of the earlier trade mark; or

(B) would take unfair advantage of the distinctive character of the earlier trade mark.

(5) A trade mark must not be refused registration by virtue of subsection (4) if the application for the registration of the trade mark was filed before the earlier trade mark became well known in Singapore, unless it is shown that the application was made in bad faith.

(6) In deciding whether any such application was made in bad faith, it is relevant to consider whether the applicant had, at the time the application was made, knowledge of, or reason to know of, the earlier trade mark.

(7) A trade mark must not be registered if, or to the extent that, its use in Singapore is liable to be prevented —

(*a*) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade; or

(*b*) by virtue of an earlier right other than those referred to in subsections (1), (2) and (3) or paragraph (*a*), in particular

by virtue of the law of copyright or any law with regard to the protection of designs.

(8) A person entitled under subsection (7) to prevent the use of a trade mark is referred to in this Act as the proprietor of an earlier right in relation to the trade mark.

(9) The Registrar may, in his or her discretion, register a trade mark where the proprietor of the earlier trade mark or other earlier right consents to the registration.

(10) The Registrar may, in his or her discretion, register any trade mark mentioned in subsection (3), (4) or (7) where the proprietor of the earlier trade mark or other earlier right fails to give notice to the Registrar of opposition to the registration in accordance with section 13.

(11) An earlier trade mark that is a registered trade mark whose registration has expired must continue to be taken into account in determining the registrability of the trade mark in question until the date mentioned in subsection (12), unless the Registrar is satisfied that there was no bona fide use of the firstmentioned trade mark during the 2 years immediately preceding that date.

[Act 7 of 2022 wef 26/05/2022]

(12) The date mentioned in subsection (11) is the last date specified in this Act or rules made under this Act on which the registration of the earlier trade mark may be restored or renewed.

[Act 7 of 2022 wef 26/05/2022]

(13) An earlier trade mark that is an international trade mark (Singapore), whose registration in the register of trade marks maintained by the International Bureau for the purposes of the Madrid Protocol is not renewed, must continue to be taken into account in determining the registrability of the trade mark in question until the date mentioned in subsection (14), unless the Registrar is satisfied that there was no bona fide use of the firstmentioned trade mark during the 2 years immediately preceding that date.

[Act 7 of 2022 wef 26/05/2022]

(14) The date mentioned in subsection (13) is the date the Registrar receives the prescribed notice of non-renewal from the International Bureau.

[Act 7 of 2022 wef 26/05/2022]

Raising of relative grounds in case of honest concurrent use

9.—(1) Where, on an application for the registration of a trade mark, it appears to the Registrar —

(*a*) that there is an earlier trade mark in relation to which the conditions set out in section 8(1), (2) or (3) apply; or

(*b*) that there is an earlier right in relation to which the condition set out in section 8(7) is satisfied,

but the applicant shows to the satisfaction of the Registrar that there has been honest concurrent use in the course of trade in Singapore of the trade mark for which registration is sought, the Registrar must not refuse the application by reason of the earlier trade mark or other earlier right unless objection on that ground is raised in opposition proceedings by the proprietor of that earlier trade mark or other earlier right.

(2) Nothing in this section affects —

(*a*) the refusal of registration on the grounds mentioned in section 7; or

(*b*) the making of an application for a declaration of invalidity under section 23(3).

Priority

Claim to priority of Convention application

10.—(1) Subject to subsection (6), where —

(*a*) a person has filed an application for the registration of a trade mark in a Convention country in respect of certain goods or services;

(*b*) that application is the first application for the registration of the trade mark to be filed in any Convention country in

respect of those goods or services (called in this section the first Convention application);

[Act 7 of 2022 wef 26/05/2022]

(*c*) within 6 months after the date on which the first Convention application is filed, that person or that person's successor in title applies under this Act for the registration of the trade mark in respect of all or any of those goods or services; and

[Act 7 of 2022 wef 26/05/2022]

(*d*) that person or that person's successor in title provides to the Registrar in the manner specified by the Registrar any prescribed information within a prescribed time, and provides to the Registrar any supporting document requested by the Registrar, within the time specified by the Registrar,

that person or that person's successor in title may, when filing the application under this Act, claim a right of priority for the registration of the trade mark in respect of all or any of the goods or services for which registration was sought in the first Convention application.

[Act 7 of 2022 wef 26/05/2022]

(2) Where any person claims the right of priority mentioned in subsection (1), the person has priority from (and including) the date on which the first Convention application was filed.

(3) Where the right of priority mentioned in subsection (1) is claimed in respect of a trade mark, the registrability of the trade mark is not affected by any use of the trade mark in Singapore in the period between —

(*a*) the date the first Convention application was filed; and

(*b*) the date the application under this Act was filed.

(4) Any filing which in a Convention country is equivalent to a regular national filing, under its domestic legislation or an international agreement, is to be treated as giving rise to the right of priority.

(5) In subsection (4), "regular national filing" means a filing which is adequate to establish the date on which the application was filed in

the Convention country, whatever may be the subsequent fate of the application.

(6) Where a subsequent application concerning the same subject as an earlier application is filed, whether in the same or a different Convention country, and these are the first 2 applications concerning that subject to be filed in any Convention country, the subsequent application is to be considered the first Convention application if, at the date the subsequent application is filed —

(*a*) the earlier application has been withdrawn, abandoned or refused, without having been laid open to public inspection and without leaving any rights outstanding; and

(*b*) the earlier application has not yet served as a basis for claiming a right of priority.

(7) To avoid doubt, where subsection (6) applies —

(*a*) the date on which the subsequent application was filed, rather than that of the earlier application, is to be considered the starting date of the period of priority under subsection (2); and

(*b*) the earlier application may not thereafter serve as a basis for claiming a right of priority.

(8) The Minister may make rules as to the manner of claiming priority under this section.

(9) A right of priority arising under this section may be assigned or otherwise transmitted, either with the application or independently, and the reference in subsection (1) to the applicant's "successor in title" is to be construed accordingly.

Claim to priority from other relevant overseas application

11.—(1) The Minister may, by order, confer on a person who has filed an application for the registration of a trade mark in a country or territory to which the Government has entered into a treaty, convention, arrangement or engagement for the reciprocal protection of trade marks, a right to priority, for the purpose of registering the same trade mark under this Act for some or all of the

same goods or services, for a specified period from the date of filing of that application.

(2) An order under this section may make provision corresponding to that set out in section 10 or such other provision as appears to the Minister to be appropriate.

Registration procedure

Examination of application

12.—(1) The Registrar must examine whether an application for registration of a trade mark satisfies the requirements of this Act (including any requirements imposed by rules made under this Act).

(2) For the purpose of subsection (1), the Registrar may carry out a search, to such extent as the Registrar considers necessary, of earlier trade marks.

(3) If it appears to the Registrar that the requirements for registration are not met or that additional information or evidence is required to meet those requirements, the Registrar must inform the applicant and give the applicant an opportunity, within such period as may be prescribed, to make representations, to amend the application or to provide the additional or any other information or evidence.

[42/2005]

(4) If the applicant responds within the period mentioned in this subsection or subsection (3) but fails to satisfy the Registrar that those requirements are met, or to amend the application or provide the additional information or evidence so as to meet them, the Registrar may —

(*a*) refuse to accept the application;

(*b*) accept the application but only in relation to the goods or services for which —

(i) registration is sought; and

(ii) the requirements for registration have been met; or

(*c*) give the applicant another opportunity within a prescribed period to make representations, to amend the application or to provide the additional information or evidence.

[Act 7 of 2022 wef 26/05/2022]

(5) If the applicant fails to respond within the period mentioned in subsection (3) or (4)(*c*), the application, or the application insofar as it relates to those goods or services for which registration is sought but the requirements for registration have not been met, is treated as withdrawn, but the Registrar must accept the application in relation to those goods and services for which registration is sought and the requirements for registration have been met.

[Act 7 of 2022 wef 26/05/2022]

(6) If it appears to the Registrar that the requirements for registration in relation to all of the goods or services for which registration is sought are met, the Registrar must accept the application.

[Act 7 of 2022 wef 26/05/2022]

Publication and opposition proceedings

13.—(1) When an application for registration has been accepted, the Registrar must cause the application to be published in the prescribed manner.

(2) Any person may, within the prescribed time from the date of the publication of the application, give notice to the Registrar of the person's opposition to the registration.

(3) The notice must be given in writing in the prescribed manner, and must include a statement of the grounds of opposition and such other matter as may be prescribed.

(4) The Minister may make rules to provide for opposition proceedings and for matters relating thereto.

(5) In this section and sections 15, 16 and 17, a reference to an application for the registration of a trade mark that has been accepted includes an application that is accepted under section 12(4) or (5) in relation to only some of the goods or services for which the registration is sought.

[Act 7 of 2022 wef 26/05/2022]

Withdrawal, restriction or amendment of application

14.—(1) The applicant may at any time withdraw the applicant's application or restrict the goods or services covered by the application.

(2) If the application has been published, the withdrawal or restriction must also be published.

(3) In other respects, an application may be amended, at the request of the applicant, only by amending —

(*a*) the name or other particular of the applicant;

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(*b*) errors of wording or of copying; or

(*c*) obvious mistakes,

and then only where the amendment does not substantially affect the identity of the trade mark or extend the goods or services covered by the application.

[Act 7 of 2022 wef 26/05/2022]

(4) Subsection (3) is subject to the rules mentioned in section 108(2)(*ea*).

[Act 7 of 2022 wef 26/05/2022]

Registration

15.—(1) Where an application has been accepted and —

(*a*) no notice of opposition is given within the period referred to in section 13(2); or

(*b*) all opposition proceedings are withdrawn or decided in favour of the applicant,

the Registrar must register the trade mark in relation to the goods or services for which the application has been accepted.

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(2) A trade mark when registered is registered as of the date of the application for registration, and that date is deemed for the purposes of this Act to be the date of registration.

(3) On the registration of a trade mark, the Registrar must issue to the applicant a certificate of registration.

Revocation of acceptance

16.—(1) Despite section 15(1), if, before a trade mark is registered, the Registrar is satisfied —

(*a*) that the application for registration of the trade mark was accepted because of an error or omission in the course of the examination; or

(*b*) that, in the special circumstances of the case, the trade mark should not be registered,

the Registrar may revoke the acceptance of the application.

(2) If the Registrar revokes the acceptance —

(*a*) the application is taken to have never been accepted; and

(*b*) section 12 again applies in relation to the application.

Series of trade marks

Registration of series of trade marks

17.—(1) A person may make a single application under section 5 for the registration of a series of trade marks.

[3/2007]

(2) For the purposes of this Act, "series of trade marks" means a number of trade marks which resemble each other as to their material particulars and which differ only as to matters of a non-distinctive character not substantially affecting the identity of the trade mark.

(3) If the Registrar is satisfied that the trade marks in question are a series of trade marks and accepts the application, and the Registrar is required under section 15 to register the trade marks, the Registrar must register them as a series in one registration.

[Act 7 of 2022 wef 26/05/2022]

Duration, renewal and alteration of registered trade mark

Duration of registration

18.—(1) A trade mark is registered for a period of 10 years from the date of registration.

(2) Registration may be renewed in accordance with section 19 for further periods of 10 years.

Renewal of registration

19.—(1) The registration of a trade mark may be renewed at the request of the proprietor, subject to payment of the fee mentioned in subsection (4) or the fees mentioned in subsection (5), as the case may be.

(2) The Minister may make rules for the Registrar to inform the proprietor of a registered trade mark, before the expiry of the registration, of the date of expiry and the manner in which the registration may be renewed.

(3) A request for renewal must be made not earlier than the prescribed period before the date of expiry of the registration, and not later than another prescribed period after that date.

[Act 7 of 2022 wef 26/05/2022]

(4) Where the request for renewal is made on or before the date of expiry of the registration, the fee payable is the prescribed renewal fee.

(5) Where the request for renewal is made within the second-mentioned prescribed period in subsection (3) after the date of expiry of the registration, the fees payable are the prescribed renewal fee and the prescribed late renewal fee.

[Act 7 of 2022 wef 26/05/2022]

(6) Renewal takes effect from the expiry of the previous registration.

(7) If the registration is not renewed in accordance with this section and the rules mentioned in subsection (2), the Registrar must remove the trade mark from the register.

(8) The Minister may make rules to provide for the restoration of the registration of a trade mark which has been removed from the register, subject to such conditions (if any) as may be prescribed.

Alteration of registered trade mark

20.—(1) Subject to subsection (2), a registered trade mark must not be altered in the register, either during the period of registration or on renewal.

(2) The Registrar may, at the request of the proprietor, allow the alteration of a registered trade mark where the mark includes the proprietor's name or address and the alteration is limited to alteration of that name or address and does not substantially affect the identity of the mark.

(3) The Minister may make rules for the publication of any such alteration and the making of objections by any person claiming to be affected by it.

Cancellation, revocation and invalidity

Cancellation of registered trade mark

21.—(1) A registered trade mark may be cancelled by the proprietor in respect of some or all of the goods or services for which it is registered.

(2) The Minister may make rules —

(*a*) to provide for the manner and effect of a cancellation; and

(*b*) for protecting the interests of other persons having a right in the registered trade mark.

Revocation of registration

22.—(1) The registration of a trade mark may be revoked on any of the following grounds:

(*a*) that, within the period of 5 years following the date of completion of the registration procedure, it has not been put to genuine use in the course of trade in Singapore, by the proprietor or with the proprietor's consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;

(*b*) that such use has been suspended for an uninterrupted period of 5 years, and there are no proper reasons for non-use;

(*c*) that, in consequence of acts or inactivity of the proprietor, it has become the common name in the trade for the product or service for which it is registered;

(*d*) that, in consequence of the use made of it by the proprietor or with the proprietor's consent in relation to the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.

(2) For the purposes of subsection (1), use of a trade mark includes use in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered, and use in Singapore includes applying the trade mark to goods or to materials for the labelling or packaging of goods in Singapore solely for export purposes.

(3) The registration of a trade mark must not be revoked on the ground mentioned in paragraph (*a*) or (*b*) of subsection (1) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the 5 year period and before the application for revocation is made.

(4) Any commencement or resumption of use referred to in subsection (3) after the expiry of the 5 year period but within the period of 3 months before the making of the application for revocation must be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(5) An application for revocation may be made by any person, and may be made either to the Registrar or to the Court, except that —

(*a*) if proceedings concerning the trade mark in question are pending in the Court — the application must be made to the Court; and

(*b*) if in any other case the application is made to the Registrar — the Registrar may at any stage of the proceedings refer the application to the Court.

(6) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation must relate to those goods or services only.

(7) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor are deemed to have ceased to that extent as from —

(*a*) the date of the application for revocation; or

(*b*) if the Registrar or the Court is satisfied that the grounds for revocation existed at an earlier date, that date.

Grounds for invalidity of registration

23.—(1) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 7.

(2) Where the registered trade mark was registered in breach of section 7 in that it is a trade mark mentioned in subsection (1)(*b*), (*c*) or (*d*) of that section, it must not be declared invalid if, in consequence of the use which has been made of it, it has after registration acquired a distinctive character in relation to the goods or services for which it is registered.

(3) The registration of a trade mark may be declared invalid on the ground —

(*a*) that there is an earlier trade mark in relation to which —

(i) the conditions set out in section 8(1) or (2) apply;

(ii) where the trade mark has been registered pursuant to an application for registration of the trade mark made before 1 July 2004 — the conditions set out in section 8(3) apply; or

(iii) where the trade mark has been registered pursuant to an application for registration of the trade mark made

on or after 1 July 2004 — the conditions set out in section 8(4) apply; or

(*b*) that there is an earlier right in relation to which the condition set out in section 8(7) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

(4) The registration of a trade mark may be declared invalid on the ground of fraud in the registration or that the registration was obtained by misrepresentation.

(5) An application for a declaration of invalidity may be made by any person, and may be made either to the Registrar or to the Court, except that —

(*a*) if proceedings concerning the trade mark in question are pending in the Court — the application must be made to the Court; and

(*b*) if in any other case the application is made to the Registrar — the Registrar may at any stage of the proceedings refer the application to the Court.

(6) An application for a declaration of invalidity of the registration of a trade mark on the ground that it was in breach of section 7(7) must not be made after the expiry of 5 years from —

(*a*) the date of completion of the registration procedure; or

(*b*) the date on which use of the trade mark by the person who applied for its registration or the person's predecessor in title has become generally known in Singapore,

whichever is the earlier, unless the applicant shows that the registration of the trade mark was applied for in bad faith.

(7) An application for a declaration of invalidity of the registration of a trade mark on the ground that there is an earlier trade mark in relation to which the conditions set out in section 8(3) or (4) apply —

(*a*) must not be made after the expiry of 5 years from 1 July 2004 or the date of completion of the registration

procedure, whichever is the later, unless the applicant for the declaration shows that —

(i) the registration of the later trade mark was applied for in bad faith; or

(ii) the later trade mark was never used; and

(*b*) must not be granted if the registration of the later trade mark was applied for before the earlier trade mark became well known in Singapore, unless the applicant for the declaration shows that the registration of the later trade mark was applied for in bad faith.

(8) In deciding whether the registration of the later trade mark was applied for in bad faith, it is relevant to consider whether the applicant for the registration of the later trade mark had, at the time the applicant's application was made, knowledge of, or reason to know of, the earlier trade mark.

(9) Where the ground of invalidity exists in respect of only some of the goods or services for which the trade mark is registered, the trade mark must be declared invalid as regards those goods or services only.

(10) Where the registration of a trade mark is declared invalid to any extent, the registration is to that extent deemed never to have been made, but this does not affect transactions past and closed.

Effect of acquiescence

24.—(1) Where the proprietor of an earlier trade mark or other earlier right has acquiesced for a continuous period of 5 years in the use in the course of trade of a registered trade mark in Singapore, being aware of that use, there ceases to be any entitlement on the basis of that earlier trade mark or other right —

(*a*) to apply for a declaration that the registration of the later trade mark is invalid; or

(*b*) to oppose the use of the later trade mark in relation to the goods or services in relation to which it has been so used,

unless the registration of the later trade mark was applied for in bad faith.

(2) Where subsection (1) applies, the proprietor of the later trade mark is not entitled to oppose the use of the earlier trade mark or (as the case may be) the exploitation of the earlier right, even though the earlier trade mark or right may no longer be invoked against the proprietor's later trade mark.

(3) For the purposes of subsection (1), in deciding whether the registration of the later trade mark was applied for in bad faith, it is relevant to consider whether the applicant for the registration of the later trade mark had, at the time the applicant's application was made, knowledge of, or reason to know of, the earlier trade mark or other right.

Miscellaneous

Amendment of other documents

25.—(1) The Registrar may, at the written request of the person who has made an application (other than an application for the registration of a trade mark), or filed a notice or other document for the purposes of this Act, or at the written request of the person's agent, amend the application, notice or document —

(*a*) to correct a clerical error or an obvious mistake; or

(*b*) if the Registrar is of the opinion that it is fair and reasonable in all the circumstances of the case to do so.

[Act 7 of 2022 wef 26/05/2022]

(2) Subsection (1) is subject to the rules mentioned in section 108(2)(*ea*).

[Act 7 of 2022 wef 26/05/2022]

PART 3

RIGHTS AND REMEDIES OF PROPRIETOR OF REGISTERED TRADE MARK

Rights of proprietor of registered trade mark

Rights conferred by registered trade mark

26.—(1) The proprietor of a registered trade mark has the exclusive rights —

(*a*) to use the trade mark; and

(*b*) to authorise other persons to use the trade mark,

in relation to the goods or services for which the trade mark is registered.

(2) The proprietor has the right to obtain relief under this Act for infringement of the proprietor's trade mark.

(3) The acts amounting to infringement of a registered trade mark are set out in section 27, and references in this Act to the infringement of a registered trade mark are to be construed accordingly.

(4) The rights accrue to the proprietor as from the date of registration of the trade mark, except that —

(*a*) no infringement proceedings may be begun before the date on which the trade mark is in fact registered; and

(*b*) no offence under section 46, 47, 48 or 49 is committed by anything done before the date on which the trade mark is in fact registered.

(5) If the trade mark is registered subject to any disclaimer or limitation, the rights of the proprietor are restricted by the disclaimer or limitation.

Acts amounting to infringement of registered trade mark

27.—(1) A person infringes a registered trade mark if, without the consent of the proprietor of the trade mark, the person uses in the course of trade a sign which is identical with the trade mark in relation to goods or services which are identical with those for which it is registered.

(2) A person infringes a registered trade mark if, without the consent of the proprietor of the trade mark, the person uses in the course of trade a sign where because —

(*a*) the sign is identical with the trade mark and is used in relation to goods or services similar to those for which the trade mark is registered; or

(*b*) the sign is similar to the trade mark and is used in relation to goods or services identical with or similar to those for which the trade mark is registered,

there exists a likelihood of confusion on the part of the public.

(3) A person infringes a registered trade mark which is well known in Singapore if —

(*a*) without the consent of the proprietor of the trade mark, the person uses in the course of trade a sign which is identical with or similar to the trade mark in relation to goods or services which are not similar to those for which the trade mark is registered;

(*b*) the use of the trade mark in relation to those goods or services would indicate a connection between those goods or services and the proprietor;

(*c*) there exists a likelihood of confusion on the part of the public because of such use; and

(*d*) the interests of the proprietor are likely to be damaged by such use.

(4) For the purposes of this section and sections 28, 29 and 31, a person uses a sign if, in particular, the person —

(*a*) applies it to goods or the packaging thereof;

(*b*) offers or exposes goods for sale, puts them on the market or stocks them for those purposes under the sign, or offers or supplies services under the sign;

(*c*) imports or exports goods under the sign;

(*d*) uses the sign on an invoice, wine list, catalogue, business letter, business paper, price list or other commercial document, including any such document in any medium; or

(*e*) uses the sign in advertising.

(5) Despite subsection (4), a person who —

(*a*) applies a sign to any material used or intended to be used for labelling or packaging goods; or

(*b*) uses a sign on any document described in subsection (4)(*d*) or in advertising,

is deemed not to use the sign if, at the time of such application or use, the person does not know nor have reason to believe that the proprietor or a licensee of the registered trade mark did not consent to such application or use of the sign.

Acts not amounting to infringement

28.—(1) Despite section 27, a person does not infringe a registered trade mark when —

(*a*) the person uses —

(i) the person's name or the name of the person's place of business; or

(ii) the name of the person's predecessor in business or the name of the person's predecessor's place of business;

(*b*) the person uses a sign to indicate —

(i) the kind, quality, quantity, intended purpose, value, geographical origin or other characteristic of goods or services; or

(ii) the time of production of goods or of the rendering of services; or

(*c*) the person uses the trade mark to indicate the intended purpose of goods (in particular as accessories or spare parts) or services,

and such use is in accordance with honest practices in industrial or commercial matters.

(2) Despite section 27, a person does not infringe a registered trade mark by using an unregistered trade mark that is identical with or similar to the registered trade mark in relation to goods or services identical with or similar to those for which the trade mark is registered if the person, or the person and the person's predecessor in title, have continuously used in the course of trade the unregistered trade mark in relation to those goods or services from a time before —

(*a*) the date of registration of the registered trade mark; or

(*b*) the date the proprietor of the registered trade mark, or a predecessor in title, or a person who was a registered user of the trade mark under the repealed Act, first used the trade mark,

whichever is the earlier.

(3) Despite section 27, a registered trade mark is not infringed by the use of another registered trade mark in relation to goods or services for which the latter is registered.

(4) Despite section 27, a person who uses a registered trade mark does not infringe the trade mark if such use —

(*a*) constitutes fair use in comparative commercial advertising or promotion;

(*b*) is for a non-commercial purpose; or

(*c*) is for the purpose of news reporting or news commentary.

Exhaustion of rights conferred by registered trade mark

29.—(1) Despite section 27, a registered trade mark is not infringed by the use of the trade mark in relation to goods which have been put on the market, whether in Singapore or outside Singapore, under that trade mark by the proprietor of the registered trade mark or with the proprietor's express or implied consent (conditional or otherwise).

(2) Subsection (1) does not apply where —

(*a*) the condition of the goods has been changed or impaired after they have been put on the market; and

(*b*) the use of the registered trade mark in relation to those goods has caused dilution in an unfair manner of the distinctive character of the registered trade mark.

Registration subject to disclaimer or limitation

30.—(1) An applicant for registration of a trade mark, or the proprietor of a registered trade mark, may —

(*a*) disclaim any right to the exclusive use of any specified element of the trade mark; or

(*b*) agree that the rights conferred by the registration are subject to a specified territorial or other limitation.

(2) Where the registration of a trade mark is subject to a disclaimer or limitation, the rights conferred by section 26 are restricted accordingly.

(3) The Minister may make rules as to the publication and entry in the register of a disclaimer or limitation.

Infringement proceedings

Action for infringement

31.—(1) An infringement of a registered trade mark is actionable by the proprietor of the trade mark.

(2) Subject to the provisions of this Act, in an action for an infringement, the types of relief that the Court may grant include the following:

(*a*) an injunction (subject to such terms (if any) as the Court thinks fit);

(*b*) damages;

(*c*) an account of profits;

(*d*) in any case to which subsection (5) applies, statutory damages under subsection (5)(*c*).

(3) When the Court awards any damages under subsection (2)(*b*), the Court may also make an order under subsection (2)(*c*) for an account of any profits attributable to the infringement that have not been taken into account in computing the damages.

(4) Except as provided for in subsection (3), the types of relief referred to in paragraphs (*b*), (*c*) and (*d*) of subsection (2) are mutually exclusive.

(5) In any action for infringement of a registered trade mark where the infringement involves the use of a counterfeit trade mark in relation to goods or services, the claimant is entitled, at the claimant's election, to —

(*a*) damages and an account of any profits attributable to the infringement that have not been taken into account in computing the damages;

(*b*) an account of profits; or

(*c*) statutory damages —

(i) not exceeding $100,000 for each type of goods or service in relation to which the counterfeit trade mark has been used; and

(ii) not exceeding in the aggregate $1 million, unless the claimant proves that the claimant's actual loss from such infringement exceeds $1 million.

[Act 31 of 2022 wef 01/11/2022]

[Act 25 of 2021 wef 01/04/2022]

(6) In awarding statutory damages under subsection (5)(*c*), the Court is to have regard to —

(*a*) the flagrancy of the infringement of the registered trade mark;

(*b*) any loss that the claimant has suffered or is likely to suffer by reason of the infringement;

[Act 25 of 2021 wef 01/04/2022]

(*c*) any benefit shown to have accrued to the defendant by reason of the infringement;

(*d*) the need to deter other similar instances of infringement; and

(*e*) all other relevant matters.

Order for erasure, etc., of offending sign

32.—(1) Subject to subsection (3), where a person is found to have infringed a registered trade mark, the Court may make an order requiring the person —

(*a*) to cause the offending sign to be erased, removed or obliterated from any infringing goods, material or articles in the person's possession, custody or control; or

(*b*) if it is not reasonably practicable for the offending sign to be erased, removed or obliterated, to secure the destruction of the infringing goods, material or articles in question.

(2) If an order under subsection (1) is not complied with, or it appears to the Court likely that such an order would not be complied with, the Court may order that the infringing goods, material or articles be delivered up to such person as the Court may direct for erasure, removal or obliteration of the sign, or for destruction, as the case may be.

(3) Where a person who is found to have infringed a registered trade mark has in the person's possession, custody or control any counterfeit goods, the Court is to order that the counterfeit goods be delivered up to such person as the Court may direct for destruction if —

(*a*) the claimant applies to the Court for such an order; and

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(*b*) the Court is of the view that there are no exceptional circumstances which justify the refusal of such an order.

Order for delivery up of infringing goods, material or articles

33.—(1) The Court may, in addition to any relief granted under sections 31 and 32 in any action for an infringement of a registered trade mark, order any infringing goods, material or articles in the

possession of the defendant or before the Court to be delivered up to the claimant.

[Act 25 of 2021 wef 01/04/2022]

(2) An order is not to be made under this section unless the Court also makes, or it appears to the Court that there are grounds for making, an order under section 34.

(3) A person to whom any infringing goods, material or articles are delivered up pursuant to an order under this section must, if an order under section 34 is not made, retain them pending the making of an order, or the decision not to make an order, under that section.

Order as to disposal of infringing goods, material or articles

34.—(1) Where infringing goods, material or articles have been delivered up pursuant to an order under section 33, an application may be made to the Court —

(*a*) for an order that they be destroyed or forfeited to such person as the Court may think fit; or

(*b*) for a decision that no such order should be made.

(2) In considering what order (if any) should be made, the Court is to have regard to —

(*a*) whether other remedies available in an action for infringement of the registered trade mark would be adequate to compensate the claimant and protect the interest of the claimant; and

[Act 25 of 2021 wef 01/04/2022]

(*b*) the need to ensure that no infringing goods, material or articles are disposed of in a manner that would adversely affect the claimant.

[Act 25 of 2021 wef 01/04/2022]

(3) Despite subsection (2), where the infringing goods are counterfeit goods, the Court is to order that the goods be destroyed if —

(*a*) the claimant applies to the Court for such an order; and

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(*b*) the Court is of the view that there are no exceptional circumstances which justify the refusal of such an order.

(4) The Court is to issue directions as to the service of notice on persons having an interest in the goods, material or articles.

(5) Any person having an interest in the goods, material or articles is entitled —

(*a*) to appear in proceedings for an order under this section, whether or not that person is served with notice; and

(*b*) to appeal against any order made, whether or not that person appears in the proceedings.

(6) An order made under this section does not take effect until the end of the period within which notice of an appeal may be given or, if before the end of that period notice of appeal is duly given, until the final determination or abandonment of the proceedings on the appeal.

(7) Subject to subsection (3), where there is more than one person interested in the goods, material or articles, the Court may direct that the goods, material or articles be sold, or otherwise dealt with, and the proceeds divided, and is to make any other order as it thinks just.

(8) If the Court decides that no order should be made under this section, the person in whose possession, custody or control the goods, material or articles were before being delivered up, is entitled to their return.

Remedy for groundless threats of infringement proceedings

35.—(1) Where a person threatens another with proceedings for infringement of a registered trade mark other than —

(*a*) the application of the mark to goods or to material used or intended to be used for labelling or packaging goods;

(*b*) the importation of goods to which, or to the packaging of which, the mark has been applied; or

(*c*) the supply of services under the mark,

any aggrieved person may bring proceedings for relief under this section.

(2) The relief which may be applied for is any of the following:

(*a*) a declaration that the threats are unjustifiable;

(*b*) an injunction against the continuance of the threats;

(*c*) damages in respect of any loss the person has sustained by the threats.

(3) The claimant is entitled to the relief mentioned in subsection (2) unless the defendant shows that the acts in respect of which proceedings were threatened constitute (or if done would constitute) an infringement of the registered trade mark concerned.

[Act 25 of 2021 wef 01/04/2022]

(4) If the defendant showed that the acts in respect of which proceedings were threatened constitute (or if done would constitute) an infringement of the registered trade mark concerned, the claimant is nevertheless entitled to relief if the claimant shows that the registration of the trade mark is invalid or liable to be revoked in a relevant respect.

[Act 25 of 2021 wef 01/04/2022]

(5) The mere notification that a trade mark is registered, or that an application for registration has been made, does not constitute a threat of proceedings for the purposes of this section.

(6) Nothing in this section renders an advocate and solicitor liable to an action under this section in respect of an act done by him or her in his or her professional capacity on behalf of a client.

PART 4

REGISTERED TRADE MARK AS OBJECT OF PROPERTY

Nature of registered trade mark

36. A registered trade mark is personal property.

Co-ownership of registered trade mark

37.—(1) Where a registered trade mark is granted to 2 or more persons jointly, each of them is entitled, subject to any agreement to the contrary, to an equal undivided share in the registered trade mark.

(2) Subsections (3) to (8) apply where 2 or more persons are co-proprietors of a registered trade mark, by virtue of subsection (1) or otherwise.

(3) Subject to any agreement to the contrary, each co-proprietor is entitled, by himself, herself or itself or the co-proprietor's agents, to do for the co-proprietor's own benefit and without the consent of or the need to account to the other or others, any act which would otherwise amount to an infringement of the registered trade mark.

(4) One co-proprietor may not, without the consent of the other or others —

(*a*) grant a licence to use the registered trade mark; or

(*b*) assign or charge that co-proprietor's share in the registered trade mark.

(5) Infringement proceedings may be brought by any co-proprietor, but the co-proprietor may not, without the permission of the Court, proceed with the action unless the other, or each of the others, is either joined as a claimant or added as a defendant.

[Act 25 of 2021 wef 01/04/2022]

(6) A co-proprietor who is added as a defendant under subsection (5) is not to be made liable for any costs in the action unless that co-proprietor takes part in the proceedings.

(7) Nothing in subsection (5) affects the granting of interlocutory relief on the application of a single co-proprietor.

(8) Nothing in this section affects the mutual rights and obligations of trustees or personal representatives, or their rights and obligations as such.

Assignment, etc., of registered trade mark

38.—(1) A registered trade mark is assignable and transmissible in the same way as other personal or movable property, and is so assignable or transmissible either in connection with the goodwill of a business or independently.

(2) An assignment or transmission of a registered trade mark may be partial, that is, limited so as to apply in relation to some but not all of the goods or services for which the trade mark is registered.

(3) An assignment of a registered trade mark, or an assent relating to a registered trade mark, is not effective unless it is in writing signed by or on behalf of the assignor or (as the case may be) a personal representative.

(4) Subsection (3) may be satisfied in a case where the assignor or personal representative is a body corporate by the affixing of its seal.

(5) Subsections (1) to (4) apply to assignment by way of security as they apply to any other assignment.

(6) A registered trade mark may be the subject of a charge in the same way as other personal or movable property.

(7) Nothing in this Act is to be construed as affecting the assignment or transmission of an unregistered trade mark as part of the goodwill of a business.

Registration of transactions affecting registered trade mark

39.—(1) On application being made to the Registrar by —

(*a*) a person claiming to be entitled to an interest in or under a registered trade mark by virtue of a registrable transaction; or

(*b*) any other person claiming to be affected by such a transaction,

the prescribed particulars of the transaction must be entered in the register.

(2) The following are registrable transactions under subsection (1):

(*a*) an assignment of a registered trade mark or any right in it;

(*b*) the grant of a licence under a registered trade mark;

(*c*) the granting of any security interest (whether fixed or floating) over a registered trade mark or any right in or under it;

(*d*) the making by personal representatives of an assent in relation to a registered trade mark or any right in or under it;

(*e*) an order of the Court or other competent authority transferring a registered trade mark or any right in or under it.

(3) Until an application has been made for the registration of the prescribed particulars of a registrable transaction mentioned in subsection (2)(*a*), (*c*), (*d*) or (*e*), the transaction is ineffective as against a person acquiring a conflicting interest in or under the registered trade mark in ignorance of the transaction.

(4) A person who becomes the proprietor of a registered trade mark by virtue of any registrable transaction mentioned in subsection (2)(*a*), (*c*), (*d*) or (*e*) is not entitled to damages, an account of profits or statutory damages under section 31(5)(*c*) in respect of any infringement of the registered trade mark occurring after the date of the transaction and before the date of the application for the registration of the prescribed particulars of the transaction.

(5) To avoid doubt, subsections (3) and (4) do not apply to any registrable transaction relating to —

(*a*) a licence under a registered trade mark; or

(*b*) any right in or under the licence.

(6) Provision may be made by rules as to —

(*a*) the amendment of registered particulars relating to a licence so as to reflect any alteration of the terms of the licence; and

(*b*) the removal of such particulars from the register —

(i) where it appears from the registered particulars that the licence was granted for a fixed period and that period has expired; or

(ii) where no such period is indicated and, after such period as may be prescribed, the Registrar has notified the parties of his or her intention to remove the particulars from the register.

(7) Provision may also be made by rules as to the amendment of or removal from the register of particulars relating to a security interest

on the application of, or with the consent of, the person entitled to the benefit of that interest.

Trusts and equities

40.—(1) No notice of any implied or constructive trust is to be entered in the register, and the Registrar is not to be affected by any such notice.

[4/2014]

(2) A notice of an express trust or of the beneficiary of an express trust, or both, may be entered in the register; but —

(*a*) the Registrar is not to be affected by any such notice in the register; and

(*b*) to avoid doubt, a failure to enter such notice in the register does not affect any rights or duties under the trust.

[4/2014]

(3) Subject to the provisions of this Act, equities in respect of a registered trade mark may be enforced in like manner as in respect of other personal or movable property.

Application for registration of trade mark as object of property

41.—(1) The provisions of sections 36, 37, 38 and 40 apply, with the necessary modifications, in relation to an application for the registration of a trade mark as they apply in relation to a registered trade mark.

(2) For the purposes of subsection (1), the reference in section 37(1) to the granting of a registration is to be construed as a reference to the making of an application for the registration of a trade mark.

(3) Any person claiming to be —

(*a*) entitled to an interest in or under an application for registration of a trade mark by virtue of a registrable transaction; or

(*b*) affected by a registrable transaction,

may give to the Registrar notice of the prescribed particulars of the transaction.

[3/2007]

(4) The following are registrable transactions under subsection (3):

(*a*) an assignment of an application for registration of a trade mark or any right in it;

(*b*) the grant of a licence under an application for registration of a trade mark;

(*c*) the granting of any security interest (whether fixed or floating) over an application for registration of a trade mark or any right in or under it;

(*d*) the making by personal representatives of an assent in relation to an application for registration of a trade mark or any right in or under it;

(*e*) an order of the Court or other competent authority transferring an application for registration of a trade mark or any right in or under it.

[3/2007]

(5) The Registrar must maintain a record of each notice given to the Registrar under subsection (3).

[3/2007]

(6) Until the notice mentioned in subsection (3) has been given to the Registrar in respect of a transaction mentioned in subsection (4)(*a*), (*c*), (*d*) or (*e*), the transaction is ineffective as against a person acquiring a conflicting interest in or under the application for registration of a trade mark in ignorance of the transaction.

[3/2007]

(7) To avoid doubt, subsection (6) does not apply to any registrable transaction relating to —

(*a*) a licence under an application for registration of a trade mark; or

(*b*) any right in or under the licence.

[3/2007]

(8) Provision may be made by rules as to —

(*a*) the amendment of the record maintained by the Registrar relating to the particulars of a grant of a licence under an application for registration of a trade mark, notice of which

has been given to the Registrar under subsection (3), so as to reflect any alteration of the terms of the licence; and

(*b*) the removal from the records maintained by the Registrar of the particulars of a grant of a licence under an application for registration of a trade mark, notice of which has been given to the Registrar under subsection (3) —

(i) where it appears from the particulars that the licence was granted for a fixed period and that period has expired; or

(ii) where no such period is indicated and, after such period as may be prescribed, the Registrar has notified the parties of his or her intention to remove the particulars from the records.

[3/2007]

(9) Provision may also be made by rules as to the amendment of the record maintained by the Registrar relating to, or the removal from the records maintained by the Registrar of, the particulars of the granting of a security interest over an application for registration of a trade mark on the application of, or with the consent of, the person entitled to the benefit of that interest.

[3/2007]

PART 5

LICENSING

Licensing of registered trade mark

42.—(1) A licence to use a registered trade mark may be general or limited.

(2) A limited licence may, in particular, apply in relation to some but not all of the goods or services for which the trade mark is registered.

(3) A licence is not effective unless it is in writing signed by or on behalf of the grantor.

(4) Subsection (3) may be satisfied in a case where the grantor is a body corporate by the affixing of its seal.

(5) Subject to subsection (7), a licence to use a registered trade mark is binding on every successor in title to the grantor's interest —

(*a*) except any person who, in good faith and without any notice (actual or constructive) of the licence, has given valuable consideration for the interest in the registered trade mark; or

(*b*) unless the licence provides otherwise,

and any reference in this Act to doing anything with, or without, the consent of the proprietor of a registered trade mark is to be construed accordingly.

(6) Every person is deemed to have notice of a licence if the prescribed particulars of the grant of the licence are entered in the register under section 39(1).

(7) Where an application under section 39(1) is made before 1 July 2004 to register the prescribed particulars of the grant of a licence, then, unless the licence provides otherwise, the licence is binding on every successor in title to the grantor's interest.

(8) Where the licence so provides, a sub-licence may be granted by the licensee; and references in this Act to a licence or licensee include references to a sub-licence or sub-licensee.

Exclusive licences

43.—(1) In this Act, an "exclusive licence" means a licence (whether general or limited) authorising the licensee to the exclusion of all other persons, including the person granting the licence, to use a registered trade mark in the manner authorised by the licence, and the expression "exclusive licensee" is to be construed accordingly.

(2) Section 42 applies, with the necessary modifications, to an exclusive licence.

General provisions as to rights of licensees in case of infringement

44.—(1) This section has effect with respect to the rights of a licensee in relation to infringement of a registered trade mark.

(2) The provisions of this section do not apply where or to the extent that, by virtue of section 45(1), the licensee has a right to bring proceedings in the licensee's own name.

(3) A licensee is entitled, unless the licensee's licence, or any licence through which the licensee's interest is derived, provides otherwise, to call on the proprietor of the registered trade mark to take infringement proceedings in respect of any matter which affects the licensee's interests.

(4) If the proprietor —

(*a*) refuses to do so; or

(*b*) fails to do so within 2 months after being called upon,

the licensee may bring the proceedings in the licensee's own name as if the licensee were the proprietor.

(5) Where infringement proceedings are brought by a licensee by virtue of this section, the licensee may not, without the permission of the Court, proceed with the action unless the proprietor is either joined as a claimant or added as a defendant.

[Act 25 of 2021 wef 01/04/2022]

(6) Subsection (5) does not affect the granting of interlocutory relief on an application by a licensee alone.

(7) A proprietor who is added as a defendant under subsection (5) is not to be made liable for any costs in the action unless the proprietor takes part in the proceedings.

(8) In infringement proceedings brought by the proprietor of a registered trade mark, any loss suffered or likely to be suffered by licensees must be taken into account.

(9) The Court may give such directions as it thinks fit as to the extent to which the claimant is to hold the proceeds of any pecuniary remedy on behalf of licensees.

[Act 25 of 2021 wef 01/04/2022]

(10) The provisions of this section apply in relation to an exclusive licensee if or to the extent that the exclusive licensee has, by virtue of section 45(1), the rights and remedies of an assignee as if the exclusive licensee were the proprietor of the registered trade mark.

Exclusive licensee having rights and remedies of assignee

45.—(1) An exclusive licence may provide that the licensee has, to such extent as may be provided by the licence, the same rights and remedies in respect of matters occurring after the grant of the licence as if the licence had been an assignment.

(2) Where or to the extent that the provision referred to in subsection (1) is made, the licensee is entitled, subject to the provisions of the licence and to the provisions of this section, to bring infringement proceedings, against any person other than the proprietor, in the licensee's own name.

(3) Any such rights and remedies of an exclusive licensee are concurrent with those of the proprietor of the registered trade mark, and references to the proprietor of a registered trade mark in the provisions of this Act relating to infringement are to be construed accordingly.

(4) In an action brought by an exclusive licensee by virtue of this section, a defendant may avail himself, herself or itself of any defence which would have been available to the defendant if the action had been brought by the proprietor of the registered trade mark.

(5) Where the proprietor or an exclusive licensee of a registered trade mark brings proceedings for any infringement of the trade mark in respect of which the proprietor and the exclusive licensee have concurrent rights of action, the proprietor or the exclusive licensee (as the case may be) need not —

(*a*) join the other as a claimant; or

[Act 25 of 2021 wef 01/04/2022]

(*b*) add the other as a defendant,

unless the Court otherwise orders.

(6) A person who is added as a defendant as mentioned in subsection (5) is not to be made liable for any costs in the action unless the person takes part in the proceedings.

(7) Where an action for infringement of a registered trade mark is brought which relates wholly or partly to an infringement in respect of which the proprietor and an exclusive licensee have or had concurrent rights of action —

(*a*) the Court is, when assessing damages, ordering an account of profits or awarding statutory damages under section 31(5)(*c*), to take into account —

(i) the terms of the licence; and

(ii) any pecuniary remedy already awarded or available to either of them in respect of the infringement; and

(*b*) subject to any agreement between them, the Court may —

(i) assess the damages or award the statutory damages due to each of them according to the losses suffered or likely to be suffered by the person as a result of the infringement; or

(ii) apportion between them the profits due to each of them according to what is attributable to the infringement of the person's rights.

(8) Subsection (7) applies whether or not the proprietor and the exclusive licensee are both parties to the action, and if they are not both parties, the Court may give such directions as it thinks fit as to the extent to which the party to the proceedings is to hold the proceeds of any pecuniary remedy on behalf of the other.

(9) The Court, in making an order under section 33, may have regard to the terms of any exclusive licence.

(10) The provisions of subsections (5) to (9) have effect subject to any agreement to the contrary between the exclusive licensee and the proprietor.

PART 6

OFFENCES

Counterfeiting a trade mark

46.—(1) Any person who counterfeits a registered trade mark shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) A person who —

(*a*) makes a sign identical to or so nearly resembling a registered trade mark as to be calculated to deceive; or

(*b*) falsifies a genuine registered trade mark, whether by alteration, addition, effacement, partial removal or otherwise,

without the consent of the proprietor of the registered trade mark is deemed to counterfeit a registered trade mark.

(3) In a prosecution under this section, the burden of proving the consent of the proprietor lies on the accused.

Falsely applying a registered trade mark to goods or services

47.—(1) Any person who falsely applies a registered trade mark to goods or services shall, unless the person proves that the person acted innocently, be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) For the purposes of this section and sections 49, 53 and 53A, a person falsely applies a registered trade mark to goods or services if —

(*a*) without the consent of the proprietor of the registered trade mark, the person applies the trade mark or a sign likely to be mistaken for that trade mark to the goods or services; and

(*b*) in the case of an application to goods, the goods are not the genuine goods of the proprietor or licensee of the registered trade mark.

(3) For the purposes of subsection (2), a trade mark is deemed to be applied to goods or services if it is used in —

(*a*) any sign or advertisement; or

(*b*) any invoice, wine list, catalogue, business letter, business paper, price list or other commercial document, including any such document in any medium,

and the goods are delivered, or services provided (as the case may be) to a person pursuant to a request or order made by reference to the trade mark as so used.

(4) For the purposes of subsection (2) —

(*a*) a sign is deemed to be applied to goods if —

(i) it is applied to the goods themselves; or

(ii) it is applied to any covering, label, reel or thing in or with which the goods are sold, offered or exposed for sale or had in possession for a purpose of trade or manufacture; and

(*b*) a sign is deemed to be applied to goods or services if it is used in a manner that is likely to lead persons to believe that it refers to, describes or designates the goods or services.

(5) In subsection (4) —

"covering" includes any stopper, glass, bottle, vessel, box, capsule, case, frame or wrapper;

"label" includes any band or ticket.

(6) In a prosecution under this section or section 49, the burden of proving the consent of the proprietor lies on the accused.

Making or possessing of article for committing offence

48. Any person who —

(*a*) makes an article specifically designed or adapted for making copies of a registered trade mark or a sign likely to be mistaken for that trade mark; or

(*b*) has such an article in the person's possession, custody or control,

knowing or having reason to believe that it has been, or is to be, used for, or in the course of, committing an offence against section 46 or 47, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $100,000 or to imprisonment for a term not exceeding 5 years or to both.

Importing or selling, etc., goods with falsely applied trade mark

49. Any person who —

(*a*) imports into Singapore for the purpose of trade or manufacture;

(*b*) sells or offers or exposes for sale; or

(*c*) has in the person's possession for the purpose of trade or manufacture,

any goods to which a registered trade mark is falsely applied shall, unless the person proves that —

(*d*) having taken all reasonable precautions against committing an offence under this section, the person had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the mark and on demand made by or on behalf of the prosecution, the person gave all the information in the person's power with respect to the persons from whom the person obtained the goods; or

(*e*) the person had acted innocently,

be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 for each goods or thing to which the trade mark is falsely applied (but not exceeding in the aggregate $100,000) or to imprisonment for a term not exceeding 5 years or to both.

Falsification of register, etc.

50. Any person who —

(*a*) makes, or causes to be made, a false entry in the register;

(*b*) makes, or causes to be made, any thing false purporting to be a copy of an entry in the register; or

(*c*) produces or tenders or causes to be produced or tendered in evidence any thing mentioned in paragraph (*b*),

knowing or having reason to believe that the entry or thing (as the case may be) is false shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 5 years or to both.

Falsely representing trade mark as registered

51.—(1) Any person who —

(*a*) falsely represents that a mark is a registered trade mark; or

(*b*) makes a false representation as to the goods or services for which a trade mark is registered,

knowing or having reason to believe that the representation is false shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000.

(2) For the purposes of this section, the use in the course of trade in Singapore in relation to a trade mark of —

(*a*) the word "registered"; or

(*b*) any other word or symbol importing a reference (express or implied) to registration,

is deemed to be a representation as to registration under this Act unless it is shown that the reference is to registration elsewhere than

in Singapore and that the trade mark is in fact so registered for the goods or services in question.

Representation on trade marks of Arms or Flags prohibited, etc.

52.—(1) Any person who causes or permits to appear on a trade mark used by the person for the purposes of the person's trade any representation of the Arms or the Flag of Singapore, or of any arms or devices likely to be mistaken for them, shall, unless such trade mark is authorised to be used by order of the President, be guilty of an offence.

(2) Any person who —

(*a*) imports into Singapore for the purpose of trade or manufacture;

(*b*) sells or offers or exposes for sale; or

(*c*) has in the person's possession for the purpose of trade or manufacture,

any goods or things to which a trade mark bearing any representation prohibited by subsection (1) is applied shall be guilty of an offence.

(3) Any person guilty of an offence under subsection (1) or (2) shall be liable on conviction to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 5 years or to both, and shall forfeit to the Government any goods or things to which the trade mark bearing the prohibited representation is applied.

Forfeiture and destruction of goods, etc., on conviction

53.—(1) Subject to subsection (2), where any person has been convicted of an offence under any provision of this Part, the court may, where it considers appropriate, order the person to forfeit to the Government all or any —

(*a*) goods in relation to which; or

(*b*) articles by means of which,

the offence was committed.

(2) Where any person has been convicted of an offence under section 47 or 49 in relation to a registered trade mark, the court is, unless it is of the view that there are exceptional circumstances for deciding otherwise, to order to be forfeited to the Government and destroyed any goods which satisfy all of the following conditions:

(*a*) the goods are goods in relation to which —

(i) the offence was committed; and

(ii) the trade mark has been falsely applied;

(*b*) the goods or their packaging bear the trade mark or sign giving rise to the false application of the trade mark.

(3) Any —

(*a*) forfeiture of goods or articles under subsection (1); or

(*b*) forfeiture and destruction of goods under subsection (2),

is in addition to any penalty or punishment that the court may impose for the offence committed.

Enforcement measures

53A.—(1) Any police officer may arrest without warrant any person who, in any street or public place —

(*a*) sells or offers or exposes for sale; or

(*b*) has, or is reasonably suspected of having, in the person's possession for the purpose of trade or manufacture,

any goods to which a registered trade mark is falsely applied.

(2) Any authorised officer may, without a warrant issued under subsection (3) —

(*a*) stop, search and board, whether forcibly or otherwise, any conveyance in which the authorised officer reasonably suspects there are goods to which a registered trade mark has been falsely applied; and

(*b*) seize, remove or detain any such goods and anything which appears to the authorised officer —

(i) to be or to contain; or

(ii) to be likely to be or to contain,

evidence of any offence under section 46, 47, 48, 49 or 52.

(3) If information is given upon oath to a court that there is reasonable cause for suspecting that there is in any premises or conveyance —

(*a*) any goods which are the subject of an offence under section 46, 47, 48, 49 or 52;

(*b*) any material or article which has been used in the commission of an offence under section 46, 47, 48, 49 or 52; or

(*c*) any document which is evidence that an offence under section 46, 47, 48, 49 or 52 has been committed,

the court may issue, either unconditionally or subject to such conditions as the court thinks fit, a warrant authorising a police officer to enter and search the premises or conveyance for any goods, material, article or document referred to in the warrant, whether specifically or in any general category, and to seize any such goods, material, article or document found at the premises or conveyance.

(4) If any goods, material, article or document has been seized under subsection (3) and —

(*a*) in proceedings brought under section 46, 47, 48, 49 or 52, no order is made —

(i) as to the disposal of the goods, material, article or document; or

(ii) in the case of any goods or article mentioned in section 53, under section 53(1) or (2); or

(*b*) no such proceedings are instituted within 6 months of the seizure,

the goods, material, article or document must be returned to the person in whose possession it was when it was seized or, if it is not reasonably practicable to return it to that person, must be disposed of in accordance with the law regulating the disposal of lost or unclaimed property in the hands of police authorities.

(5) No action or other legal proceeding shall lie against the Government or any officer or employee thereof for anything which is in good faith done or omitted to be done in the exercise of any power, duty or function under this section.

(5A) The Minister may appoint any officer or class or description of officers to exercise the powers and perform the duties conferred and imposed on an authorised officer by this section.

[Act 5 of 2025 wef 09/03/2025]

(5B) An appointment under subsection (5A) must be published in the *Gazette*.

[Act 5 of 2025 wef 09/03/2025]

(6) In this section —

"authorised officer" means —

(*a*) a police officer;

(*b*) an officer of customs as defined in the Customs Act 1960;

(*c*) an immigration officer as defined in the Immigration Act 1959; or

(*d*) any officer or class or description of officers appointed under subsection (5A);

[Act 5 of 2025 wef 09/03/2025]

"conveyance" includes any vehicle, vessel, train or aircraft in which persons or goods can be carried;

"document" means anything in which information of any description is recorded;

"premises" includes any land, building or structure.

PART 7

INTERNATIONAL MATTERS

The Madrid Protocol, etc.

Power to make provision giving effect to Madrid Protocol, etc.

54.—(1) The Minister may make rules to give effect in Singapore to the provisions of the Madrid Protocol or of any treaty, convention, arrangement or engagement relating to trade marks to which Singapore is a party.

(2) Rules may, in particular, be made to provide for —

(*a*) the making of applications for international registrations by way of the Registry as office of origin;

(*b*) the procedures to be followed where the basic Singapore application or registration fails or ceases to be in force;

(*c*) the procedures to be followed where the Registry receives from the International Bureau or any body specified in the rules a request for extension of protection to Singapore;

(*d*) the effects of a successful request for extension of protection to Singapore;

(*e*) the transformation of an application for an international registration, or an international registration, into a national application for registration;

(*f*) the communication of information to the International Bureau; and

(*g*) the payment of fees and amounts prescribed in respect of applications for international registrations, extensions of protection and renewals.

(3) Provision may also be made in the rules to apply in relation to an international trade mark (Singapore) the provisions of section 35 and Parts 6 and 10.

The Paris Convention, the TRIPS Agreement and well known trade marks: supplementary provisions

Protection of well known trade marks

55.—(1) A well known trade mark is entitled to protection under this section —

(*a*) whether or not the trade mark has been registered in Singapore, or an application for the registration of the trade mark has been made to the Registrar; and

(*b*) whether or not the proprietor of the trade mark carries on business, or has any goodwill, in Singapore.

(2) Subject to subsections (6) and (7), the proprietor of a well known trade mark is entitled to restrain by injunction the use in Singapore, in the course of trade and without the proprietor's consent, of any trade mark which, or an essential part of which, is identical with or similar to the proprietor's trade mark, in relation to identical or similar goods or services, where the use is likely to cause confusion.

(3) Subject to subsections (6) and (7), the proprietor of a well known trade mark is entitled to restrain by injunction the use in Singapore, in the course of trade and without the proprietor's consent, of any trade mark which, or an essential part of which, is identical with or similar to the proprietor's trade mark, in relation to any goods or services, where the use of the trade mark —

(*a*) would indicate a connection between those goods or services and the proprietor, and is likely to damage the interests of the proprietor; or

(*b*) if the proprietor's trade mark is well known to the public at large in Singapore —

(i) would cause dilution in an unfair manner of the distinctive character of the proprietor's trade mark; or

(ii) would take unfair advantage of the distinctive character of the proprietor's trade mark.

(4) Subject to subsections (6) and (7), the proprietor of a well known trade mark is entitled to restrain by injunction the use in Singapore without the proprietor's consent of any business identifier which, or an essential part of which, is identical with or similar to the proprietor's trade mark, where the use of the business identifier —

(*a*) would indicate a connection between the business in respect of which it is used and the proprietor, and is likely to damage the interests of the proprietor; or

(*b*) if the proprietor's trade mark is well known to the public at large in Singapore —

(i) would cause dilution in an unfair manner of the distinctive character of the proprietor's trade mark; or

(ii) would take unfair advantage of the distinctive character of the proprietor's trade mark.

(5) If the Court grants an injunction under subsection (4) restraining the use by any business of any business identifier, the Court may make such other order as the Court deems fit in respect of any entry in any record maintained by any person, body or authority which associates that business with that business identifier.

(6) The proprietor is not entitled to the right referred to in subsection (2), (3) or (4) if the use of the trade mark or business identifier (as the case may be) began before the proprietor's trade mark became well known in Singapore, unless the trade mark or business identifier has been used in bad faith.

(7) The proprietor ceases to be entitled to the right referred to in subsection (2), (3) or (4) if the proprietor has acquiesced for a continuous period of 5 years in the use of the trade mark or business identifier (as the case may be) in Singapore, being aware of that use, unless the trade mark or business identifier has been used in bad faith.

(8) In deciding whether the trade mark or business identifier (as the case may be) has been used in bad faith, it is relevant to consider whether the person who used the trade mark or business identifier had, at the time the person began to use the trade mark or business

identifier, knowledge of, or reason to know of, the proprietor's trade mark.

(9) Nothing in subsection (2) affects the continuation of any use mentioned therein in good faith of a trade mark that was begun before 15 January 1999.

(10) Nothing in subsection (3) or (4) affects the continuation of any use mentioned therein in good faith of a trade mark or business identifier (as the case may be) that was begun before 1 July 2004.

(11) For the purposes of this section and sections 55A, 56, 57 and 59, "use", in relation to a trade mark, means use within the meaning of section 27(4).

Permitted use of well known trade marks

55A.—(1) Despite section 55, the proprietor of a well known trade mark is not entitled to restrain by injunction the use in Singapore, in accordance with honest practices in industrial or commercial matters, by any person of —

(*a*) the name of —

(i) the person himself or herself;

(ii) the person's place of business;

(iii) the person's predecessor in business; or

(iv) the place of business of the person's predecessor in business;

(*b*) any sign to indicate —

(i) the kind, quality, quantity, intended purpose, value, geographical origin or other characteristic of goods or services; or

(ii) the time of production of goods or of the rendering of services; or

(*c*) the trade mark to indicate the intended purpose of goods (in particular as accessories or spare parts) or services.

(2) Despite section 55, the proprietor of a well known trade mark is not entitled to restrain by injunction the use in Singapore of any

registered trade mark in relation to goods or services for which the latter is registered.

(3) Despite section 55, the proprietor of a well known trade mark is not entitled to restrain by injunction the use in Singapore of the trade mark if such use —

(*a*) constitutes fair use in comparative commercial advertising or promotion;

(*b*) is for a non-commercial purpose; or

(*c*) is for the purpose of news reporting or news commentary.

National emblems, etc., of Convention countries: Article 6*ter* of Paris Convention, etc.

56.—(1) A trade mark which consists of or contains the flag of a Convention country must not be registered without the authorisation of the competent authorities of that country, unless it appears to the Registrar that use of the flag in the manner proposed is permitted without such authorisation.

(2) A trade mark which consists of or contains the armorial bearings or any other state emblem of a Convention country which is protected under the Paris Convention or the TRIPS Agreement must not be registered without the authorisation of the competent authorities of that country.

(3) A trade mark which consists of or contains an official sign or hallmark adopted by a Convention country and indicating control and warranty must not, where the sign or hallmark is protected under the Paris Convention or the TRIPS Agreement, be registered in relation to goods or services of the same, or a similar kind, as those in relation to which it indicates control and warranty, without the authorisation of the competent authorities of the country concerned.

(4) The provisions of this section as to national flags and other state emblems, and official signs or hallmarks, apply equally to anything which from a heraldic point of view imitates any such flag or other emblem, or sign or hallmark.

(5) Nothing in this section prevents the registration of a trade mark on the application of a national of a country who is authorised to make

use of a state emblem, or official sign or hallmark, of that country, even though it is similar to that of another country.

(6) Where by virtue of this section the authorisation of the competent authorities of a Convention country is or would be required for the registration of a trade mark, those authorities are entitled to restrain by injunction any use in the course of trade of the trade mark in Singapore without their authorisation.

Emblems, etc., of certain international organisations: Article 6*ter* of Paris Convention, etc.

57.—(1) This section applies to —

(*a*) the armorial bearings, flags or other emblems; and

(*b*) the abbreviations and names,

of international intergovernmental organisations of which one or more Convention countries are members.

(2) A trade mark which consists of or contains any such emblem, abbreviation or name which is protected under the Paris Convention or the TRIPS Agreement must not be registered without the authorisation of the international organisation concerned, unless it appears to the Registrar that the use of the emblem, abbreviation or name in the manner proposed —

(*a*) is not such as to suggest to the public that a connection exists between the organisation and the trade mark; or

(*b*) is not likely to mislead the public as to the existence of a connection between the user and the organisation.

(3) The provisions of this section as to emblems of an international organisation apply equally to anything which from a heraldic point of view imitates any such emblem.

(4) Where by virtue of this section the authorisation of an international organisation is or would be required for the registration of a trade mark, that organisation is entitled to restrain by injunction any use in the course of trade of the trade mark in Singapore without its authorisation.

(5) Nothing in this section affects the rights of a person whose bona fide use of the trade mark in question began before 23 February 1995 (when the relevant provisions of the Paris Convention entered into force in relation to Singapore).

Notification under Article 6*ter* of Paris Convention, etc.

58.—(1) For the purposes of section 56, state emblems of a Convention country (other than the national flag), and official signs or hallmarks, are regarded as protected under the Paris Convention or the TRIPS Agreement only if, or to the extent that —

(*a*) the country in question has notified Singapore in accordance with Article 6*ter*(3) of the Paris Convention, or under that Article as applied by the TRIPS Agreement, that it desires to protect that emblem, sign or hallmark;

(*b*) the notification remains in force; and

(*c*) Singapore has not objected to it in accordance with Article 6*ter*(4) of the Paris Convention, or under that Article as applied by the TRIPS Agreement, or any such objection has been withdrawn.

(2) For the purposes of section 57, the emblems, abbreviations and names of an international organisation are regarded as protected under the Paris Convention or the TRIPS Agreement only if, or to the extent that —

(*a*) the organisation in question has notified Singapore in accordance with Article 6*ter*(3) of the Paris Convention, or under that Article as applied by the TRIPS Agreement, that it desires to protect that emblem, abbreviation or name;

(*b*) the notification remains in force; and

(*c*) Singapore has not objected to it in accordance with Article 6*ter*(4) of the Paris Convention, or under that Article as applied by the TRIPS Agreement, or any such objection has been withdrawn.

(3) Notification under Article 6*ter*(3) of the Paris Convention, or under that Article as applied by the TRIPS Agreement, has effect only

in relation to applications for registration made more than 2 months after the receipt of the notification.

(4) The Registrar must keep and make available for public inspection by any person, at all reasonable hours and free of charge, a list of —

(*a*) the state emblems and official signs or hallmarks; and

(*b*) the emblems, abbreviations and names of international organisations,

which are for the time being protected under the Paris Convention or the TRIPS Agreement by virtue of a notification under Article 6*ter*(3) of that Convention or under that Article as applied by the TRIPS Agreement.

Acts of agent or representative: Article 6*septies* of the Paris Convention, etc.

59.—(1) Subsections (2) to (6) apply where an application for registration of a trade mark is made by a person who is an agent or representative of a person who is the proprietor of the trade mark in a Convention country.

(2) If the proprietor opposes the application, registration must be refused.

(3) If the application (not being so opposed) is granted, the proprietor may —

(*a*) apply for a declaration of the invalidity of the registration; or

(*b*) apply for the rectification of the register so as to substitute the proprietor's name as the proprietor of the registered trade mark.

(4) The proprietor may (notwithstanding the rights conferred by this Act in relation to a registered trade mark) by injunction restrain any use in the course of trade of the trade mark in Singapore which is not authorised by the proprietor.

(5) Subsections (2), (3) and (4) do not apply if, or to the extent that, the agent or representative justifies the agent's or representative's action.

(6) An application under subsection (3)(*a*) or (*b*) must be made within 3 years of the proprietor becoming aware of the registration.

(7) No injunction may be granted under subsection (4) in respect of a use in which the proprietor has acquiesced for a continuous period of 3 years or more.

PART 8

COLLECTIVE MARKS AND CERTIFICATION MARKS

Collective marks

60.—(1) A collective mark is a sign used, or intended to be used, in relation to goods or services dealt with or provided in the course of trade by members of an association to distinguish those goods or services from goods or services so dealt with or provided by persons who are not members of the association.

(2) The provisions of this Act apply to collective marks subject to the provisions of the First Schedule.

Certification marks

61.—(1) A certification mark is a sign used, or intended to be used, to distinguish goods or services —

(*a*) dealt with or provided in the course of trade; and

(*b*) certified by the proprietor of the certification mark in relation to origin, material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics,

from other goods or services dealt with or provided in the course of trade but not so certified.

(2) The provisions of this Act apply to certification marks subject to the provisions of the Second Schedule.

PART 9

ADMINISTRATIVE AND OTHER SUPPLEMENTARY PROVISIONS

The Registrar

Registrar of Trade Marks and other officers

62.—(1) There is to be a Registrar of Trade Marks who has the control of the Registry of Trade Marks.

(2) There are to be one or more Deputy Registrars of Trade Marks who, subject to the control of the Registrar, have all the powers and functions of the Registrar under this Act, other than the powers of the Registrar under section 63.

(3) There are to be one or more Assistant Registrars of Trade Marks.

(4) The Registrar and all the other officers under this section must be appointed by the Minister.

Delegation by Registrar

63.—(1) The Registrar may, in relation to a particular matter or class of matters, by writing under the hand of the Registrar, delegate all or any of the Registrar's powers or functions under this Act (except this power of delegation) to an Assistant Registrar of Trade Marks, any public officer, or any person with the relevant qualifications for or experience in the matter or class of matters, so that the delegated powers and functions may be exercised by the delegate with respect to the matter or class of matters specified in the instrument of delegation.

[4/2014]

(2) A delegation under this section is revocable at will and no delegation prevents the exercise of a power or function by the Registrar or by a Deputy Registrar of Trade Marks.

(3) A person with the relevant qualifications or experience mentioned in subsection (1) is, when exercising the delegated powers and functions, deemed to be a public servant for the purposes of the Penal Code 1871.

[4/2014]

Registry of Trade Marks

64. For the purposes of this Act, there is established an office known as the Registry of Trade Marks.

Seal of Registry

65. There is to be a seal of the Registry and impressions of the seal are to be judicially noticed.

The Register

The register

66.—(1) The Registrar must maintain a register of trade marks.

(2) There must be entered in the register in accordance with this Act —

(*a*) registered trade marks;

(*b*) such particulars as may be prescribed of registrable transactions affecting a registered trade mark; and

(*c*) such other matters relating to registered trade marks as may be prescribed.

(3) The register may be kept in whole or in part using a computer.

(4) Any record of a particular or other matter made by using a computer for the purpose of keeping the register is taken to be an entry in the register.

Rectification of register

67.—(1) Any person having a sufficient interest may apply for the rectification of an error or omission in the register.

(2) An application for rectification may not be made in respect of a matter affecting the validity of the registration of a trade mark.

(3) An application for rectification may be made either to the Registrar or to the Court, except that —

(*a*) if proceedings concerning the trade mark in question are pending in the Court, the application must be made to the Court; and

(*b*) if in any other case the application is made to the Registrar, the Registrar may at any stage of the proceedings refer the application to the Court.

(3A) An application to the Registrar for rectification is subject to the rules mentioned in section 108(2)(*ea*).

[Act 7 of 2022 wef 26/05/2022]

(4) Except where the Registrar or the Court directs otherwise, the effect of rectification of the register is that the error or omission in question is deemed never to have been made.

(5) The Registrar may, on request made in the prescribed manner by the proprietor of a registered trade mark, or a licensee, enter any change in the proprietor's or licensee's name or address as recorded in the register.

(6) The Registrar may remove from the register matter appearing to the Registrar to have ceased to have effect.

[Act 7 of 2022 wef 26/05/2022]

Inspection of and extract from register

68.—(1) The register must be available at the Registry for inspection by any person during the hours when the Registry is open for business.

(2) If the register, or any part of the register, is kept by using a computer, subsection (1) is satisfied if a person who wants to inspect the register or that part of the register is given access to a computer terminal from which the person can read on a screen, or obtain a printed copy of, the particulars or other matters recorded in the register or that part of the register.

(3) Any person who applies for a certified copy of an entry in the register or a certified extract from the register is entitled to obtain such a copy or extract on payment of the prescribed fee.

[16/2012]

(4) In relation to any portion of the register kept otherwise than in documentary form, the right to a copy or extract conferred by subsection (3) is a right to a copy or extract in a form in which it can be taken away.

(5) In this section, "certified copy" and "certified extract" mean a copy and extract certified by the Registrar.

[16/2012]

Powers and duties of Registrar

Costs awarded by Registrar

69.—(1) The Registrar may award costs in respect of the matters, and in the amounts provided for in rules made under this Act, against any party to proceedings brought before the Registrar.

(2) The rules may provide for the assessment of the costs, or any part of the costs, by the Registrar.

[Act 25 of 2021 wef 01/04/2022]

(3) A party desirous to obtain costs or to have the costs assessed must apply to the Registrar in accordance with the rules.

[Act 25 of 2021 wef 01/04/2022]

(4) If a party is ordered to pay the costs of another party, the costs may be recovered in a court of competent jurisdiction as a debt due by the first party to the other party.

Security for costs

70. If a person who neither resides nor carries on business in Singapore —

(*a*) gives notice of opposition under section 13; or

(*b*) applies to the Registrar under section 22 or 23 for the registration of a trade mark to be revoked or to be declared invalid, as the case may be,

the Registrar may require the person to give security for the costs for the proceedings and may, if security is not given, dismiss the proceedings.

Evidence before Registrar

71. The Registrar may, for the purposes of any proceedings before him or her under this Act —

(*a*) summon witnesses;

(*b*) receive evidence on oath, whether orally or otherwise; and

(*c*) require the production of documents or articles.

Disobedience to summons an offence

72.—(1) A person who has been summoned to appear as a witness before the Registrar must not, without lawful excuse, fail to appear in obedience to the summons.

(2) A person who has been required by the Registrar to produce a document or article must not, without lawful excuse, fail to produce the document or article.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000 or to imprisonment for a term not exceeding 3 months or to both.

Refusal to give evidence an offence

73.—(1) A person who appears before the Registrar must not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents or articles, or to answer questions, which the person is lawfully required to produce or answer.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $2,000 or to imprisonment for a term not exceeding 3 months or to both.

Exclusion of liability in respect of official acts

74.—(1) The Office and the Registrar shall not be taken to warrant the validity of the registration of a trade mark under this Act or under any treaty, convention, arrangement or engagement to which Singapore is a party.

(2) Neither the Office nor the Registrar is subject to any liability by reason of, or in connection with, any examination required or authorised by this Act, or any such treaty, convention, arrangement or engagement, or any report or other proceedings consequent on such examination.

(3) No proceedings shall lie against an officer of the Office or the Registrar in respect of any matter for which, by virtue of this section, the Office or the Registrar is not liable.

Appeals from Registrar

75.—(1) Except as provided under subsections (2) and (3) or by rules made under this Act, there is no appeal from a decision of the Registrar for any matter under this Act or the rules made under this Act.

[16/2016]

(2) The following are subject to appeal to the Court:

(*a*) a decision of the Registrar as to the registrability of a trade mark;

(*b*) a decision of the Registrar not to allow any alteration of a registered trade mark as described in section 20;

(*c*) a decision of the Registrar relating to an application for revocation under section 22;

(*d*) a decision of the Registrar relating to an application for a declaration of invalidity under section 23;

(*e*) a decision of the Registrar under section 67.

(3) Where the Registrar makes a decision in any interlocutory proceedings between 2 or more parties, and the decision terminates any matter concerning a trade mark or an application for a trade mark, any of those parties who is adversely affected by the termination of the matter may appeal to the Court from the decision of the Registrar.

[16/2016]

(4) An appeal does not lie to the appellate court from a decision of the Court on appeal from a decision of the Registrar for any matter under this Act or the rules made under this Act unless permission to appeal is given by the appellate court.

[23/2019; 40/2019]

[Act 25 of 2021 wef 01/04/2022]

(5) In this section, "appellate court" means the court to which an appeal under subsection (4) is to be made under section 29C of the Supreme Court of Judicature Act 1969.

[40/2019]

Forms, fees, hours of business and publication

Forms and directions of Registrar

76. The Minister may make rules for the publication by the Registrar of —

(*a*) the forms to be used for any purpose relating to the registration of a trade mark or any other proceedings before the Registrar under this Act; and

(*b*) the practice directions issued by the Registrar.

Fees

77.—(1) There must be paid in respect of applications and registration and other matters under this Act such fees as may be prescribed.

(2) The Minister may make rules as to the remission of fees in the prescribed circumstances.

(3) All fees collected must be paid into the funds of the Office.

(4) Subsection (3) does not apply to fees prescribed in rules made under section 54(2)(*g*) which are to be forwarded to the International Bureau.

Hours of business and excluded days

78.—(1) The Registrar may issue practice directions to specify —

(*a*) the hours of business of the Registry; and

(*b*) the days which are to be treated as excluded days.

(2) The Minister may prescribe the effect of doing any business under this Act —

(*a*) on any day after the hours of business of the Registry; or

(*b*) on any day which is an excluded day.

(3) For the purposes of subsections (1) and (2) —

(*a*) different hours of business may be specified for different classes of business;

(*b*) different excluded days may be specified for different classes of business; and

(*c*) different effects of doing business —

(i) outside the hours of business of the Registry; or

(ii) on an excluded day,

may be prescribed for different classes of business.

Publication of trade mark applications, etc.

79. The Minister may make rules for the publication by the Registrar of the particulars of any application for the registration of a trade mark (including a representation of the mark) and such other information relating to trade marks as the Registrar thinks fit.

Trade mark agents

Recognition of agents

80. Except as otherwise provided by rules, any act required or authorised by this Act to be done by or to a person in connection with the registration of a trade mark, or any procedure relating to a registered trade mark, may be done by or to an agent authorised by that person orally or in writing.

PART 10

ASSISTANCE BY BORDER AUTHORITIES

Division 1 — Preliminary provisions

[34/2018]

Interpretation of this Part

81. In this Part, unless the context otherwise requires —

"aircraft" has the meaning given by section 2 of the Regulation of Imports and Exports Act 1995;

"authorised officer" means —

(*a*) an officer of customs as defined in section 3(1) of the Customs Act 1960; or

(*b*) any officer or class or description of officers appointed under section 81A(2);

[Act 5 of 2025 wef 09/03/2025]

"conveyance" has the meaning given by section 2 of the Regulation of Imports and Exports Act 1995;

"Director-General" means the Director-General of Customs appointed under section 4(1) of the Customs Act 1960;

"goods in transit" means goods imported, whether or not landed or transhipped within Singapore, which are to be carried to another country either by the same or another conveyance;

"infringement action" means an action for an infringement of the relevant registered trade mark constituted by any use of a sign (within the meaning of section 27(4)) in relation to the seized goods;

"master" has the meaning given by section 2 of the Regulation of Imports and Exports Act 1995;

"pilot of an aircraft" has the meaning given by section 2 of the Regulation of Imports and Exports Act 1995;

"proprietor", in relation to a registered trade mark, includes a licensee of the trade mark;

"requestor", in relation to particular seized goods, means the person who gave the written notice under section 82(1) as a result of the giving of which the goods were seized;

"retention period", in relation to seized goods, means —

(*a*) the period specified in a notice given under section 85 in respect of the goods; or

(*b*) if that period has been extended under section 85, that period as so extended;

"seized goods" means goods seized under section 82;

"senior authorised officer" means —

(*a*) a senior officer of customs as defined in section 3(1) of the Customs Act 1960; and

(*b*) any officer or class or description of officers appointed under section 81A(3);

[Act 5 of 2025 wef 09/03/2025]

"vehicle" has the meaning given by section 2 of the Regulation of Imports and Exports Act 1995;

"vessel" has the meaning given by section 2 of the Regulation of Imports and Exports Act 1995.

[34/2018]

Administration of this Part

81A.—(1) The Director-General may delegate to a senior officer of customs (within the meaning of section 3(1) of the Customs Act 1960) any of the powers of the Director-General under this Part (except the power of delegation conferred by this section), subject to such conditions or restrictions as the Director-General may determine.

[Act 5 of 2025 wef 09/03/2025]

(2) The Minister may appoint any officer or class or description of officers to exercise the powers and perform the duties conferred and imposed on an authorised officer by this Part.

[Act 5 of 2025 wef 09/03/2025]

(3) The Minister may appoint any officer or class or description of officers to exercise the powers and perform the duties conferred and imposed on a senior authorised officer by this Part.

[Act 5 of 2025 wef 09/03/2025]

(4) An appointment under subsection (2) or (3) must be published in the *Gazette*.

[34/2018]

[Act 5 of 2025 wef 09/03/2025]

Fees

81B.—(1) The Minister charged with the responsibility for customs duties may make rules to prescribe the fees payable to the Director-General in connection with the administration of this Part.

[34/2018]

(2) Without limiting subsection (1), rules may be made to prescribe fees for the following purposes:

(*a*) for the escort of a conveyance conveying goods seized under section 82(4) or 93A;

(*b*) for the attendance of an authorised officer or a senior authorised officer in connection with the inspection or destruction of such seized goods;

(*c*) for the attendance of an authorised officer or a senior authorised officer in connection with any other act or service under this Part.

[34/2018]

Division 2 — Seizure of goods on request

[34/2018]

Restriction of importation or exportation of infringing goods

82.—(1) A person who is the proprietor or a licensee of a registered trade mark may give the Director-General a written notice —

(*a*) stating that the person is —

(i) the proprietor of the registered trade mark; or

(ii) a licensee thereof having the power to give such a notice;

(*b*) stating that goods which, in relation to the registered trade mark, are infringing goods are expected to be imported or exported;

(*c*) providing sufficient information —

(i) to identify the goods;

(ii) to enable the Director-General to ascertain when and where the goods are expected to be imported or exported; and

(iii) to satisfy the Director-General that the goods are infringing goods; and

(*d*) requesting the Director-General to seize the goods.

[34/2018]

(2) A notice under subsection (1) must be —

(*a*) in the form determined by the Director-General, and supported by such documents and information as the Director-General may require; and

(*b*) accompanied by the fee prescribed under section 81B.

[34/2018]

(3) A notice under subsection (1) remains in force until the 59th day after the day on which the notice was given, unless it is revoked, before the end of that period, by written notice given to the Director-General —

(*a*) if the person giving the firstmentioned notice is a licensee of the registered trade mark and the licensee has power to revoke the notice — by the licensee;

(*b*) in any other case — by the person who is then the proprietor of the registered trade mark.

[34/2018]

(4) If —

(*a*) a notice has been given under this section in respect of a registered trade mark;

(*b*) the notice has not lapsed or been revoked; and

(*c*) a person imports or proposes to export goods, not being goods in transit, which bear a sign that, or whose packaging bears a sign that, in the opinion of an authorised officer, is identical with or similar to the registered trade mark in question,

an authorised officer may seize the goods.

[34/2018]

(5) The Minister may make rules that are necessary or convenient to be prescribed for carrying out or giving effect to this Division, and in particular to provide —

(*a*) for the times at which, and the manner in which, notices are to be given;

(*b*) for the giving of information and evidence to the Director-General; and

(*c*) that an authorised officer may refuse to seize any goods because of non-compliance with any direction of the Director-General or any such rule.

[34/2018]

Security for liability or expense of seizure, storage and disposal

83. An authorised officer may refuse to seize goods under section 82 unless —

(*a*) the requestor has deposited with the Director-General a sum of money that, in the opinion of the Director-General, is sufficient to —

(i) reimburse the Government for any liability or reasonable expense it is likely to incur in relation to the seizure, storage and disposal of the goods; and

(ii) pay such compensation as may be ordered by the Court under section 89(2) or 90(6); or

(*b*) the requestor has given security, to the satisfaction of the Director-General, for the reimbursement of the Government for any such liability or expense and the payment of such compensation.

[34/2018]

Secure storage of seized goods

84. At the Director-General's direction, seized goods must be taken to a secure place the Director-General directs, either by the person in possession, custody or control of those goods immediately before the seizure or the requestor, whoever the Director-General considers appropriate.

[34/2018]

Notice of seizure

85.—(1) As soon as is practicable after goods are seized under section 82, the Director-General must give to the importer or exporter (as the case may be), and the requestor, personally, by post or (with the prior consent of the addressee) by email, a written notice identifying the goods and stating that they have been seized.

[34/2018]

(2) A notice under subsection (1) must state that the goods will be released to the importer or exporter unless —

(*a*) an infringement action in respect of the goods is instituted by the requestor within a specified period after the day specified in the notice; and

(*b*) the requestor gives written notice to the Director-General within that period stating that the infringement action has been instituted.

[34/2018]

(3) The period to be specified for the purpose of paragraph (*a*) of subsection (2) is the period prescribed for the purposes of that paragraph.

(4) The day specified for the purposes of subsection (2)(*a*) must not be earlier than the day on which the notice is given.

(5) The requestor may, by written notice given to the Director-General before the end of the period specified in a notice for the purposes of subsection (2)(*a*) (the initial period), request that the period be extended.

[34/2018]

(6) Subject to subsection (7), if —

(*a*) a request is made in accordance with subsection (5); and

(*b*) the Director-General is satisfied that it is reasonable that the request be granted,

the Director-General may extend the initial period by such period as is prescribed.

(7) A decision on a request made in accordance with subsection (5) must be made within 2 working days after the request is made, but

such a decision cannot be made after the end of the initial period to which the request relates.

Persons bound to give information or produce documents

85A.—(1) At any time after goods have been seized under section 82(4), an authorised officer or a senior authorised officer who has reasonable cause to believe that a person has any information or document that the officer considers is relevant for any of the purposes in subsection (2), may require that person to provide to the officer that information or document at a time and place specified by the officer.

[34/2018]

(2) The purposes mentioned in subsection (1) are —

(*a*) to enable the Director-General to satisfy a request under section 85B (whether or not such a request has actually been received);

(*b*) to enable any action to be taken under this Division or Division 3 in relation to future shipments of goods; and

(*c*) for a statistical or research purpose.

[34/2018]

(3) A person who —

(*a*) without reasonable excuse, fails to comply with a requirement under subsection (1); or

(*b*) in purported compliance with such requirement, knowingly or recklessly provides any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000 or to imprisonment for a term not exceeding 6 months or to both.

[34/2018]

(4) A person is not excused from providing any information or document in compliance with a requirement under subsection (1) on the ground that it might tend to incriminate the person.

[34/2018]

(5) Where the person claims, before providing any information or document pursuant to a requirement under subsection (1), that it might tend to incriminate the person, then the information or document is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under subsection (3).

[34/2018]

(6) No information or document that is provided pursuant to a requirement under subsection (1) may be published, or communicated or disclosed to any person, except where and to the extent it is necessary for a purpose in subsection (2).

[34/2018]

(7) A person who contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000 or to imprisonment for a term not exceeding 12 months or to both.

[34/2018]

Information on import or export

85B.—(1) After goods have been seized under section 82(4), the Director-General may, upon the request of the requestor, and if the Director-General is satisfied that the information is necessary to enable the requestor to institute an infringement action, give the requestor the name and contact details of any person connected with the import or proposed export (as the case may be) of the seized goods.

[34/2018]

(2) Subsection (1) applies despite any duty of confidentiality imposed by the common law on the Director-General or a person to whom the Director-General has delegated the power under that subsection.

[34/2018]

Inspection, release, etc., of seized goods

86.—(1) The Director-General may permit the requestor or the importer or exporter (as the case may be) to inspect the seized goods.

[34/2018]

(2) If the requestor gives the requisite undertakings, the Director-General may permit the requestor to remove a sample of the seized goods from the custody of the Director-General for inspection by the requestor.

[34/2018]

(3) If the importer or exporter (as the case may be) gives the Director-General the requisite undertakings, the Director-General may permit the importer or exporter to remove a sample of the seized goods from the custody of the Director-General for inspection by the importer or exporter.

[34/2018]

(4) The requisite undertakings are undertakings in writing that the person giving the undertaking will —

(*a*) return the sample to the Director-General at a specified time that is satisfactory to the Director-General; and

(*b*) take reasonable care to prevent damage to the sample.

(5) If the Director-General permits inspection of the seized goods, or the removal of a sample, by the requestor in accordance with this section, the Director-General is not liable to the importer or exporter for any loss or damage suffered by the importer or exporter arising out of —

(*a*) damage to any of the seized goods incurred during that inspection; or

(*b*) anything done by the requestor or any other person to, or in relation to, a sample removed from the custody of the Director-General or any use made by the requestor of such a sample.

[34/2018]

Forfeiture of seized goods by consent

87.—(1) Subject to subsection (2), the importer or exporter (as the case may be) may, by written notice and the giving of the prescribed written undertakings to the Director-General, consent to the seized goods being forfeited to the Government.

[34/2018]

(2) The notice must be given before any infringement action in relation to the seized goods is instituted.

(3) If the importer or exporter satisfies the requirements of subsection (1), the seized goods are forfeited to the Government and must be disposed of —

(*a*) in the manner prescribed by rules made under this Act; or

(*b*) if no manner of disposal is so prescribed, as the Director-General directs.

[34/2018]

Compulsory release of seized goods to importer or exporter

88.—(1) The Director-General must release seized goods (not being goods forfeited to the Government under section 87) to the importer or exporter (as the case may be) as soon as possible after the expiration of the retention period for the goods if the requestor has not, before the expiration of that period —

(*a*) instituted an infringement action in relation to the goods; and

(*b*) given written notice to the Director-General stating that the action has been instituted.

[34/2018]

(2) If —

(*a*) an infringement action has been instituted in relation to the seized goods; and

(*b*) on the 22nd day after the day on which the action was instituted, there is not in force an order of the Court in which the action was instituted preventing the release of the goods,

the Director-General must release the goods to the importer or exporter (as the case may be) as soon as possible after the firstmentioned day.

[34/2018]

(3) If the requestor gives written notice to the Director-General stating that the requestor consents to the release of the seized goods,

the Director-General must release the goods to the importer or exporter (as the case may be) as soon as possible.

[34/2018]

(4) This section has effect subject to section 91.

Compensation for failure to take action

89.—(1) Where goods have been seized pursuant to a notice given under section 82 and the requestor concerned fails to take infringement action within the retention period for the goods, a person aggrieved by such seizure may apply to the Court for an order of compensation against the requestor.

[34/2018]

(2) Where the Court is satisfied that the applicant had suffered loss or damage as a result of the seizure of the goods, the Court may order the requestor to pay compensation in such amount as the Court thinks fit to the applicant.

[34/2018]

Actions for infringement of registered trade mark

90.—(1) The Court in which an infringement action is pending may, on the application of a person having a sufficient interest in the subject matter of the action, allow the person to be joined as a defendant to the action.

(2) An authorised officer is entitled to be heard on the hearing of an infringement action.

(3) In addition to any relief that may be granted apart from this section, the Court may —

(*a*) at any time, order that the seized goods be released to the importer or exporter (as the case may be) subject to such conditions (if any) as the Court thinks fit;

(*b*) order that the seized goods not be released to the importer or exporter (as the case may be) before the end of a specified period; or

(*c*) order that the seized goods be forfeited to the Government.

[34/2018]

(4) A Court may not make an order under subsection (3)(*a*) if it is satisfied that the Government or any statutory authority is required or permitted under any other law to retain control of the seized goods.

(5) The Director-General must comply with an order made under subsection (3).

(6) If —

(*a*) the action is dismissed or discontinued, or if the Court decides that the relevant registered trade mark was not infringed by the use of a sign (within the meaning of section 27(4)) in relation to the seized goods; and

(*b*) a defendant to the infringement action satisfies the Court that the defendant has suffered loss or damage as a result of the seizure of the goods,

the Court may order the requestor to pay compensation in such amount as the Court thinks fit to that defendant.

[34/2018]

Retention of control of seized goods

91. Despite section 88, in a case in which no order has been made under section 90(3) in relation to seized goods, the Director-General is not obliged to release or dispose of the goods if the Government is required or permitted, under any other law, to retain control of the goods.

Disposal of seized goods

92.—(1) If the Court orders that seized goods are to be forfeited to the Government, the goods must be disposed of —

(*a*) in the manner prescribed by rules made under this Act; or

(*b*) if no manner of disposal is so prescribed, as the Director-General directs.

[34/2018]

(2) If —

(*a*) the Director-General gives to the importer or exporter a written notice of the release of seized goods; and

(*b*) the importer or exporter fails to take custody of the seized goods within the period specified in the notice,

the Director-General may dispose of the goods —

(*c*) in the manner prescribed by rules made under this Act; or

(*d*) if no manner of disposal is so prescribed, as the Director-General directs.

[34/2018]

Insufficient security

93.—(1) If the reasonable expenses incurred by the Director-General in relation to any action taken by the Director-General under this Division, or taken in accordance with an order of court under this Division exceed the amount deposited, or the amount of the security given, under section 83, the amount of the excess is a debt due to the Government.

[34/2018]

(2) The debt created by subsection (1) is due by the requestor, or, if there are 2 or more requestors, by the requestors jointly and severally.

[34/2018]

Division 3 — Ex-officio seizure of goods

Seizure and inspection of counterfeit goods

93A.—(1) Despite section 82(4), an authorised officer may —

(*a*) examine any goods to which this subsection applies, including goods in transit; or

(*b*) seize any goods to which this subsection applies —

(i) that are imported into, or that are to be exported from, Singapore; and

(ii) that are not goods in transit, unless they are consigned to a person with a commercial or physical presence in Singapore.

[34/2018]

(2) Subsection (1) applies to goods that the authorised officer reasonably suspects are counterfeit goods in relation to a registered trade mark.

[34/2018]

(3) As soon as practicable after the goods are seized under subsection (1)(*b*), the Director-General must give personally, by post or (with the prior consent of the addressee) by email, a written notice to —

(*a*) the importer, exporter or consignee (as the case may be) of the seized goods (called in this Division the dealer); and

(*b*) the proprietor of the registered trade mark.

[34/2018]

(4) The written notice in subsection (3) must —

(*a*) identify the goods seized; and

(*b*) set out the rights of the dealer in section 86 (as applied by subsection (5)), and the requirements in section 93B.

[34/2018]

(5) Section 86 (which provides for the inspection of seized goods) applies in relation to the seized goods as it applies in relation to goods seized under section 82(4), with the following modifications:

(*a*) replace a reference to the requestor with a reference to the proprietor of the registered trade mark;

(*b*) replace a reference to the importer or exporter with a reference to the dealer.

[34/2018]

(6) At the Director-General's direction, seized goods must be taken to a secure place the Director-General directs by such of the following as the Director-General considers appropriate:

(*a*) the person in possession, custody or control of those goods immediately before the seizure;

(*b*) the proprietor of the registered trade mark (but only if the proprietor has satisfied section 93B(1)(*a*) and (*b*)).

[34/2018]

Requirements for continued detention

93B.—(1) If the proprietor of the registered trade mark wants the Director-General to continue to detain the seized goods so that the proprietor may institute an infringement action in relation to them, the proprietor must, within the prescribed period after the date of the notice in section 93A(3) —

(*a*) give to the Director-General a written notice of this in the form determined by the Director-General, supported by such documents and information as the Director-General may require, and accompanied by the fee prescribed under section 81B; and

(*b*) either —

(i) deposit with the Director-General a sum of money that, in the Director-General's opinion, is sufficient for the purpose mentioned in subsection (2); or

(ii) give security to the Director-General's satisfaction for such purpose,

unless the proprietor had earlier given such deposit or security to the Director-General and the deposit had not been forfeited or returned or the security is still effective.

[34/2018]

(2) The purpose in subsection (1) is the reimbursement to the Government of —

(*a*) any liability or reasonable expense it is likely to incur in relation to the seizure, storage and disposal of the goods; and

(*b*) the payment of such compensation as the Court may order under section 93I or section 90(6) (as applied by section 93H).

[34/2018]

(3) If subsection (1) is not satisfied, the Director-General must release the seized goods to the dealer.

[34/2018]

(4) The Minister may make rules that are necessary or convenient to be prescribed for carrying out or giving effect to this Division, and in particular to provide —

(*a*) for the times at which, and the manner in which, notices are to be given;

(*b*) for the giving of information and evidence to the Director-General; and

(*c*) that the Director-General may release any seized goods to the dealer concerned because of non-compliance with any direction of the Director-General or any such rule.

[34/2018]

Notice to take action

93C.—(1) If section 93B(1)(*a*) and (*b*) has been satisfied by the proprietor of the registered trade mark, the Director-General must, as soon as practicable, give to the proprietor and the dealer personally, by post or (with the prior consent of the addressee) by email, a written notice that states that the goods will be released to the dealer unless —

(*a*) an infringement action in relation to the goods is instituted by the proprietor within a prescribed period after the day specified in the notice; and

(*b*) the proprietor gives written notice to the Director-General within that period stating that such action has been instituted.

[34/2018]

(2) Section 85(4) to (7) applies in relation to a notice under subsection (1) as it applies in relation to a notice under section 85(1), as if a reference to the requestor is a reference to the proprietor of the registered trade mark.

[34/2018]

Persons bound to give information or produce documents

93D.—(1) At any time after goods have been seized under section 93A, an authorised officer or a senior authorised officer who has reasonable cause to believe that a person has any information or document that the officer considers is relevant for any of the

purposes in subsection (2), may require that person to provide to the officer that information or document at a time and place specified by the officer.

[34/2018]

(2) The purposes mentioned in subsection (1) are —

(*a*) to enable the Director-General to satisfy a request under section 93E (whether or not such a request has actually been received);

(*b*) to enable any action to be taken under this Division or Division 2 in relation to future shipments of goods; and

(*c*) for a statistical or research purpose.

[34/2018]

(3) A person who —

(*a*) without reasonable excuse, fails to comply with a requirement under subsection (1); or

(*b*) in purported compliance with such requirement, knowingly or recklessly provides any information or document that is false or misleading in a material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000 or to imprisonment for a term not exceeding 6 months or to both.

[34/2018]

(4) A person is not excused from providing any information or document in compliance with a requirement under subsection (1) on the ground that it might tend to incriminate the person.

[34/2018]

(5) Where the person claims, before providing any information or document pursuant to a requirement under subsection (1), that it might tend to incriminate the person, then the information or document is not admissible in evidence against the person in criminal proceedings other than proceedings for an offence under subsection (3).

[34/2018]

(6) No information or document that is provided pursuant to a requirement under subsection (1) may be published, or communicated or disclosed to any person, except where and to the extent it is necessary for a purpose in subsection (2).

[34/2018]

(7) A person who contravenes subsection (6) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000 or to imprisonment for a term not exceeding 12 months or to both.

[34/2018]

Information on import or export

93E.—(1) After section 93B(1)(*a*) and (*b*) has been satisfied by the proprietor of the registered trade mark, the Director-General may, upon the request of the proprietor, and if the Director-General is satisfied that the information is necessary to enable the proprietor to institute an infringement action, give the proprietor the name and contact details of any person connected with the import or proposed export (as the case may be) of the seized goods.

[34/2018]

(2) Subsection (1) applies despite any duty of confidentiality imposed by the common law on the Director-General or a person to whom the Director-General has delegated the power under that subsection.

[34/2018]

Forfeiture of seized goods by consent

93F.—(1) Subject to subsection (2), the dealer may, by written notice and the giving of the prescribed written undertakings to the Director-General, consent to the seized goods being forfeited to the Government.

[34/2018]

(2) The notice must be given before any infringement action in relation to the goods is instituted.

[34/2018]

(3) If the dealer satisfies the requirements of subsection (1), the goods are forfeited to the Government and must be disposed of —

(*a*) in the manner prescribed by rules made under this Act; or

(*b*) if no manner of disposal is so prescribed, as the Director-General directs.

[34/2018]

Compulsory release of seized goods to dealer

93G.—(1) The Director-General must release the seized goods (not being goods forfeited to the Government under section 93F) to the dealer as soon as possible after the date of expiry of the period specified in the notice under section 93C(1) (including any extension of that period under section 85(6) as applied by section 93C(2)), if the proprietor of the registered trade mark has not, before that date —

(*a*) instituted an infringement action in respect of the goods; and

(*b*) given written notice to the Director-General stating that the action has been instituted.

[34/2018]

(2) If —

(*a*) an infringement action has been instituted in respect of the seized goods; and

(*b*) on the 22nd day after the day on which the action was instituted, there is not in force an order of the Court preventing the release of the goods,

the Director-General must release the goods to the dealer as soon as possible after the firstmentioned day.

[34/2018]

(3) If the proprietor of the registered trade mark gives a written notice to the Director-General stating that the proprietor consents to the release of the seized goods, the Director-General must release the goods to the dealer as soon as possible.

[34/2018]

Provisions relating to infringement action

93H. Section 90 applies in relation to an infringement action concerning goods seized under section 93A, as it applies in relation to an infringement action concerning goods seized under section 82(4), with the following modifications:

(*a*) replace a reference to the requestor with a reference to the proprietor of the registered trade mark;

(*b*) replace a reference to the importer or exporter with a reference to the dealer.

[34/2018]

Compensation for failure to take action

93I.—(1) Where —

(*a*) goods have been seized under section 93A;

(*b*) the goods continue to be detained because section 93B(1) has been satisfied; and

(*c*) the proprietor fails to take infringement action within the period specified in section 93C(1) (including any extension of that period under section 85(6) as applied by section 93C(2)),

a person aggrieved by the seizure may apply to the Court for an order of compensation against the proprietor.

[34/2018]

(2) Where the Court is satisfied that the applicant has suffered loss or damage as a result of the seizure of the goods, the Court may order the proprietor to pay to the applicant compensation of such amount as the Court thinks fit.

[34/2018]

Retention of control of seized goods

93J. Despite section 93G and any rule made under section 93B(4)(*c*), in a case in which no order has been made under section 90(3) (as applied by section 93H) in relation to the seized goods, the Director-General is not obliged to release or dispose of the goods if the Government is required or permitted, under any other law, to retain control of the goods.

[34/2018]

Disposal of seized goods

93K. Section 92 applies in relation to goods seized under section 93A, as it applies in relation to goods seized under

section 82(4), with a reference to the importer or exporter replaced with a reference to the dealer.

[34/2018]

Insufficient security

93L.—(1) If the reasonable expenses incurred by the Director-General in relation to any action taken by the Director-General under this Division, or taken in accordance with an order of the Court under this Division exceed the amount deposited, or the amount of the security given, under section 93B, the amount of the excess is a debt due to the Government.

[34/2018]

(2) The debt created by subsection (1) is due by the proprietor or, if there are 2 or more proprietors, by the proprietors jointly and severally.

[34/2018]

Division 4 — Powers of search

[34/2018]

Powers of search in relation to vessels, aircraft and vehicles

94.—(1) A senior authorised officer or an authorised officer acting in accordance with the general or special directions of a senior authorised officer may board any conveyance in Singapore and may rummage and search all parts of the conveyance for goods liable to be seized under section 82 or 93A.

[34/2018]

(2) For the more effective exercise of the powers conferred by this section, a senior authorised officer may do all or any of the following:

(*a*) require the master of any vessel in Singapore to heave to;

(*b*) by direction to the master of any vessel or the pilot of any aircraft in Singapore, require the vessel or aircraft (as the case may be) not to proceed until so authorised;

(*c*) require any documents which ought to be on board any vessel or aircraft, being documents relating to any goods therein, to be brought to the senior authorised officer for inspection;

(*d*) break open and forcibly enter any place or receptacle in any conveyance to which the senior authorised officer cannot otherwise reasonably obtain access;

(*e*) by direction to the master of any vessel in Singapore, require the vessel to proceed to any specified anchorage, wharf or place to which the vessel may lawfully go;

(*f*) by direction to the master of any vessel in Singapore, require the master to move or discharge any cargo or other goods therein;

(*g*) require the person in charge of a vehicle —

(i) to stop and not to proceed until so authorised; or

(ii) to bring the vehicle to any police station or examination station;

(*h*) direct that the removal of any goods from or placed in any vessel be prohibited until so authorised;

(*i*) require the master of any vessel or the pilot of any aircraft to produce a complete manifest of the whole cargo of the vessel or aircraft and a complete list of stores carried by that vessel or aircraft.

(3) An authorised officer may exercise, in respect of any vehicle or any vessel not exceeding 75 tons net tonnage, the powers which are conferred upon a senior authorised officer by subsection (2) other than the powers conferred by paragraph (*d*) of that subsection.

(4) It is presumed in any proceedings arising out of any thing done under this section, unless the contrary is proved, that any authorised officer, not being a senior authorised officer, by whom the thing was done was acting in accordance with the general or special direction of a senior authorised officer.

(5) If any vessel or aircraft fails to comply with any lawful requisition or direction given or made under this section, a senior authorised officer may take all such steps as appear to the senior authorised officer necessary to secure such compliance.

(6) Any person who contravenes this section or who fails to comply with any lawful requisition or direction given or made under this

section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000 or to imprisonment for a term not exceeding 12 months or to both.

(7) An authorised officer may exercise the powers conferred by this section in respect of a vessel under way if the authorised officer reasonably suspects that it is not in transit through Singapore.

Examination of packages, etc.

95.—(1) Any goods, package, box, chest or other article which is being or has recently been imported, or is being exported, and in regard to which a reasonable suspicion exists that it is or that it contains goods liable to be seized under section 82 or 93A may be —

(*a*) examined and searched by an authorised officer or detained until any person in charge thereof has opened it for examination and search;

(*b*) subjected to such infringement verification, or tests or analysis as the authorised officer thinks fit;

(*c*) forcibly opened by, or by order of, a senior authorised officer to facilitate the examination and search except that any person in charge of the package, box, chest or other article must be afforded every reasonable facility for being present at the opening, examination and search; or

(*d*) marked, locked, sealed or otherwise secured by an authorised officer pending examination and search.

[34/2018]

(2) Any person, other than an authorised officer, who removes, opens, breaks or tampers with any mark, lock, seal or other means of securing any goods, package, box, chest or other article referred to in subsection (1)(*d*) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000 or to imprisonment for a term not exceeding 6 months or to both.

(3) In this section, "infringement verification" means any process (whether or not involving the proprietor of the registered trade mark concerned) to determine if any article is or contains goods liable to be seized under section 82(4) or 93A.

[34/2018]

Power to remove packages and goods to police station or examination station

96.—(1) For the more convenient exercise of the powers conferred by section 95, an authorised officer may remove any package, box, chest or other article or any goods to a police station or examination station or may require it to be so removed by the owner thereof or the owner's agent or any person having the custody, charge or control thereof.

(2) Any person who fails to comply with any such requisition shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $6,000.

(3) Upon the failure by a person to comply with such a requisition, an authorised officer may remove the package, box, chest, article or goods (as the case may be) in the manner provided by subsection (1) and all the expenses of such removal (as certified by a senior authorised officer) are recoverable as a fine from that person or from the owner of the package, box, chest, article or goods (as the case may be).

[34/2018]

Search of persons and baggage

97.—(1) Any person landing or being about to land or having recently landed from any vessel or aircraft, or leaving any vessel or aircraft in Singapore whether for the purpose of landing or otherwise, or entering or having recently entered Singapore by land, sea or air, must —

(*a*) on demand by an authorised officer, either permit his or her person and goods and baggage to be searched by the officer for any goods liable to be seized under section 82 or 93A or, together with the goods and baggage, accompany the officer to a police station or an examination station, and there permit his or her person and goods and baggage to be searched in the presence and under the supervision of a senior authorised officer for any goods liable to be seized under section 82 or 93A; or

(*b*) on demand by a senior authorised officer, permit his or her person and goods and baggage to be searched by the officer, or in the presence and under the supervision of the officer, for any goods liable to be seized under section 82 or 93A.

[34/2018]

(2) Whenever it is necessary to cause a woman to be searched, the search must be made by another woman and with strict regard to decency.

(3) The goods and baggage of any person who requests to be present when they are searched must not be searched except in his or her presence, unless he or she fails to be present after being given reasonable facility for being present.

(4) Any person who refuses to comply with any lawful demand made under this section may be arrested without warrant by the officer making the demand.

Powers of authorised officers to enter certain premises

98.—(1) For the purpose of exercising the powers conferred by sections 94 to 97, an authorised officer may, without warrant, enter upon —

(*a*) any islet, landing place, wharf, dock, railway or quay;

(*b*) any premises of a provider of port services or facilities licensed or exempted under the Maritime and Port Authority of Singapore Act 1996; or

(*c*) any premises of any airport operated under a licence or exemption under the Civil Aviation Authority of Singapore Act 2009.

[34/2018]

(2) In this section, "railway" has the meaning given by the Railways Act 1905.

[34/2018]

Division 5 — Miscellaneous provisions

[34/2018]

Obstruction

99. Any person who —

(*a*) refuses any authorised officer or senior authorised officer access to any vessel, aircraft, vehicle or place which the officer is entitled to under this Part; or

(*b*) obstructs or hinders any authorised officer or senior authorised officer in the execution of any power conferred upon that officer by this Part,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $15,000 or to imprisonment for a term not exceeding 12 months or to both.

Protection from personal liability

100. No liability shall lie personally against the Director-General, an authorised officer, a senior authorised officer, or any person acting under the direction of the Director-General for anything done or omitted to be done with reasonable care and in good faith in the course of or in connection with —

(*a*) the exercise or purported exercise of any power under this Part;

(*b*) the performance or purported performance of any function or the discharge or purported discharge of any duty under this Part; or

(*c*) the compliance or purported compliance with this Part.

[34/2018]

PART 11

MISCELLANEOUS AND GENERAL PROVISIONS

Registration to be prima facie evidence

101. In all legal proceedings relating to a registered trade mark or any right thereunder (including proceedings for rectification of the register) —

(*a*) the register is prima facie evidence of anything contained therein;

(*b*) the registration of the prescribed particulars of any registrable transaction under section 39 is prima facie evidence of the transaction; and

(*c*) the registration of a person as proprietor of a registered trade mark is prima facie evidence of —

(i) the validity of the original registration; and

(ii) any subsequent assignment or other transmission of the registration.

Certificate of validity of contested registration

102.—(1) If in any proceedings before the Registrar or the Court the validity of the registration of a trade mark to any extent is contested and it is found by the Registrar or the Court that the registration of the trade mark is wholly or partially valid, the Registrar or the Court may give a certificate to that effect and the fact that the validity of the registration was so contested.

[23/2019]

(2) Where a certificate is given under subsection (1) and in subsequent proceedings before the Registrar or the Court —

(*a*) the validity of the registration is again questioned; and

(*b*) the proprietor obtains a final order or judgment in the proprietor's favour relying on the validity of the registration as found in the earlier proceedings,

the proprietor is entitled to the proprietor's costs as between solicitor and client unless the Registrar or the Court directs otherwise.

[23/2019]

(3) Subsection (2) does not extend to the costs of an appeal in any such proceedings.

Certificate of Registrar

103. A certificate purporting to be under the hand of the Registrar as to any entry, matter or thing which the Registrar is authorised to make or do under this Act, is prima facie evidence of the entry having

been made, and of the contents thereof, and of the matter or thing having been done or not done.

Costs of proceedings before Court

104. In all proceedings before the Court under this Act, the Court may award to any party (including the Registrar) such costs as it may consider reasonable, but the Registrar is not to be ordered to pay the costs of any other of the parties.

Burden of proving use of trade mark

105. If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.

Composition of offences

105A.—(1) The Registrar or any person authorised in writing by the Registrar may compound any offence under this Act that is prescribed as a compoundable offence by collecting from a person reasonably suspected of having committed the offence a sum not exceeding the lower of the following:

(*a*) one half of the amount of the maximum fine that is prescribed for the offence;

(*b*) $5,000.

[Act 23 of 2019 wef 10/06/2022]

(2) The Office may, with the approval of the Minister, make regulations to prescribe the offences which may be compounded.

(3) On payment of the sum of money, no further proceedings are to be taken against that person in respect of the offence.

(4) All sums collected under this section must be paid into the Consolidated Fund.

[Act 23 of 2019 wef 10/06/2022]

Jurisdiction of Courts

106. A District Court or a Magistrate's Court has jurisdiction to hear and determine all offences under this Act and, despite anything

to the contrary in the Criminal Procedure Code 2010, has power to impose the full penalty or punishment in respect of any such offence.

Offence committed by partnership or body corporate

107.—(1) Proceedings for an offence under this Act alleged to have been committed by a partnership must be brought against the partnership in the name of the firm and not in that of the partners; but without affecting any liability of the partners under subsection (3).

(2) A fine imposed on a partnership on its conviction in such proceedings must be paid out of the partnership assets.

(3) Where a partnership is guilty of an offence under this Act, every partner, other than a partner who is proved to have been ignorant of or to have attempted to prevent the commission of the offence, is also guilty of the offence and liable to be proceeded against and punished accordingly.

(4) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, he or she as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

Power to make rules

108.—(1) The Minister may make rules —

(*a*) for any purpose for which rules are authorised or required to be made under this Act;

(*b*) for prescribing matters authorised or required by this Act to be prescribed;

(*c*) for prescribing matters necessary or convenient to be prescribed for carrying out or giving effect to this Act;

(*d*) for prescribing matters necessary or convenient to be prescribed for the conduct of any proceedings or other matter before the Registrar.

[3/2007]

(2) Without limiting subsection (1), the rules may make provision —

(*a*) as to the practice and procedure of any proceedings or other matter before the Registrar;

(*b*) as to the manner of filing of applications or other documents;

(*c*) requiring persons to make such statutory declarations as may be prescribed in support of any application, notice or request;

(*d*) requiring and regulating the translation of documents and the filing and authentication of any translation;

(*e*) as to the service of documents;

(*ea*) to enable the Registrar to publish —

(i) an application to rectify an error or omission in the register; and

(ii) a request to amend an application, a notice or other document,

and to provide for the making of objections to the rectification or amendment by a person claiming to be affected by it;

[Act 7 of 2022 wef 26/05/2022]

(*f*) authorising the rectification of irregularities of procedure;

(*g*) prescribing time limits for anything required to be done in connection with any proceedings under this Act;

(*h*) for the extension of any time limit which has been prescribed, or which the Registrar has specified, and which has not expired;

(*i*) as to the giving of evidence in proceedings before the Registrar under this Act by affidavit or statutory declaration;

[Act 7 of 2022 wef 26/05/2022]

(*ia*) for the continued processing of an application that is treated as withdrawn; and

[Act 7 of 2022 wef 26/05/2022]

(*j*) for the reinstatement of —

(i) [*Deleted by Act 7 of 2022 wef 26/05/2022*]

(ii) any right which has been abrogated, or thing which has ceased to be in force or to exist, by reason of a failure to comply with any time limit which has been prescribed or which the Registrar has specified,

and the conditions for such reinstatement.

[42/2005; 3/2007]

Transitional provisions

109.—(1) The provisions of the Third Schedule have effect with respect to transitional matters on 15 January 1999.

(2) [*Deleted by Act 31 of 2022 wef 01/11/2022*]

FIRST SCHEDULE

Section 60(2)

COLLECTIVE MARKS

General

1.—(1) The provisions of this Act apply to collective marks subject to the following provisions.

(2) For the purposes of this Schedule, "published" means made available to the public (whether in Singapore or elsewhere), and a document is taken to be published if it can be inspected as of right at any place in Singapore by members of the public, whether on payment of a fee or not.

Signs of which a collective mark may consist

2. In relation to a collective mark, the reference in the definition of "trade mark" in section 2(1) to distinguishing goods or services dealt with or provided in the course of trade by a person from those so dealt with or provided by any other person is to be construed as a reference to distinguishing goods or services dealt with or provided in the course of trade by members of an association which is the proprietor of the mark from those so dealt with or provided by persons who are not members of the association.

FIRST SCHEDULE — *continued*

Indication of geographical origin

3.—(1) Despite section 7(1)(*c*), a collective mark may be registered which consists of signs or indications which may serve, in trade, to designate the geographical origin of the goods or services.

(2) However, the proprietor of such a mark is not entitled to prohibit the use of the signs or indications in accordance with honest practices in industrial or commercial matters (in particular, by a person who is entitled to use a geographical name).

Mark not to be misleading as to character or significance

4.—(1) A collective mark must not be registered if the public is liable to be misled as regards the character or significance of the mark, in particular if it is likely to be taken to be something other than a collective mark.

(2) The Registrar may accordingly require that a mark in respect of which application is made for registration include some indication that it is a collective mark.

(3) Despite section 14(3), an application may be amended so as to comply with any such requirement.

Regulations governing use of collective mark

5.—(1) An applicant for registration of a collective mark must file with the Registrar regulations governing the use of the mark.

(2) The regulations must specify the persons authorised to use the mark, the conditions of membership of the association and, where they exist, the conditions of use of the mark, including any sanctions against misuse.

(3) Further requirements with which the regulations have to comply may be imposed by rules made under this Act.

Approval of regulations by Registrar

6.—(1) A collective mark must not be registered unless the regulations governing the use of the mark —

(*a*) comply with paragraph 5(2) and any further requirements imposed by rules; and

(*b*) are not contrary to public policy or to accepted principles of morality.

(2) Before the end of the prescribed period after the date of the application for registration of a collective mark, the applicant must file the regulations with the Registrar and pay the prescribed fee.

(3) If the applicant does not comply with sub-paragraph (2), the application is to be treated as withdrawn.

7.—(1) The Registrar must consider whether the requirements mentioned in paragraph 6(1) are met.

(2) If it appears to the Registrar that those requirements are not met, he or she must inform the applicant and give the applicant an opportunity, within such period as the Registrar may specify, to make representations or to file amended regulations.

(3) If the applicant responds within the specified period but fails to satisfy the Registrar that those requirements are met, or to file regulations that have been amended so as to meet those requirements, the Registrar may refuse the application.

(4) If the applicant fails to respond within the specified period, the application is to be treated as withdrawn.

(5) If it appears to the Registrar that —

(*a*) the requirements mentioned in paragraph 6(1) are met; and

(*b*) the other requirements for registration in relation to all or some of the goods or services for which registration is sought are met,

the Registrar must accept the application in relation to the goods or services for which the requirements for registration are met and must proceed in accordance with section 13.

[Act 7 of 2022 wef 26/05/2022]

8. The regulations must be published and notice of opposition may be given relating to the matters mentioned in paragraph 6(1), in addition to any other grounds on which the application may be opposed.

Regulations to be open to inspection

9. The regulations governing the use of a registered collective mark must be open to public inspection in the same way as the register.

FIRST SCHEDULE — *continued*

Amendment of regulations

10.—(1) An amendment of the regulations governing the use of a registered collective mark is not effective unless and until the amended regulations are filed with the Registrar and accepted by him or her.

(2) Before accepting any amended regulations the Registrar may, in any case where it appears to him or her expedient to do so, cause them to be published.

(3) If the Registrar does so, notice of opposition may be given relating to the matters mentioned in paragraph 6(1).

Infringement: rights of authorised users

11. The following provisions apply in relation to an authorised user of a registered collective mark as in relation to a licensee of a trade mark:

(*a*) section 27(5);

(*b*) section 82.

12.—(1) The following provisions (which correspond to the provisions of section 44) have effect as regards the rights of an authorised user in relation to infringement of a registered collective mark.

(2) An authorised user is entitled, subject to any agreement to the contrary between the authorised user and the proprietor, to call on the proprietor to take infringement proceedings in respect of any matter which affects the authorised user's interests.

(3) If the proprietor —

(*a*) refuses to do so; or

(*b*) fails to do so within 2 months after being called upon,

the authorised user may bring the proceedings in the authorised user's own name as if the authorised user were the proprietor.

(4) Where infringement proceedings are brought by virtue of this paragraph, the authorised user may not, without the permission of the Court, proceed with the action unless the proprietor is either joined as a claimant or added as a defendant.
[Act 25 of 2021 wef 01/04/2022]

(5) Sub-paragraph (4) does not affect the granting of interlocutory relief on an application by an authorised user alone.

(6) A proprietor who is added as a defendant as mentioned in sub-paragraph (4) is not to be made liable for any costs in the action unless the proprietor takes part in the proceedings.

FIRST SCHEDULE — *continued*

(7) In infringement proceedings brought by the proprietor of a registered collective mark, any loss suffered or likely to be suffered by authorised users must be taken into account; and the Court may give such directions as it thinks fit as to the extent to which the claimant is to hold the proceeds of any pecuniary remedy on behalf of such users.

[Act 25 of 2021 wef 01/04/2022]

Grounds for revocation of registration

13. Apart from the grounds of revocation provided for in section 22, the registration of a collective mark may be revoked on the ground —

(*a*) that the manner in which the mark has been used by the proprietor has caused it to become liable to mislead the public in the manner referred to in paragraph 4(1); or

(*b*) that the proprietor has failed to observe, or to secure the observance of, the regulations governing the use of the mark; or

(*c*) that an amendment of the regulations has been made so that the regulations —

(i) no longer comply with paragraph 5(2) and any further conditions imposed by rules; or

(ii) are contrary to public policy or morality.

Grounds for invalidity of registration

14. Apart from the grounds of invalidity provided for in section 23, the registration of a collective mark may be declared invalid on the ground that the mark was registered in breach of the provisions of paragraph 4(1) or 6(1).

[42/2005]

SECOND SCHEDULE

Section 61(2)

CERTIFICATION MARKS

General

1.—(1) The provisions of this Act apply to certification marks subject to the provisions of this Schedule.

(2) For the purposes of this Schedule, "published" means made available to the public (whether in Singapore or elsewhere), and a document is taken to be

published if it can be inspected as of right at any place in Singapore by members of the public, whether on payment of a fee or not.

Signs of which a certification mark may consist

2. In relation to a certification mark, the reference in the definition of "trade mark" in section 2(1) to distinguishing goods or services dealt with or provided in the course of trade by a person from those so dealt with or provided by any other person is to be construed as a reference to distinguishing goods or services dealt with or provided in the course of trade and which are certified in the manner referred to in section 61(1)(*b*) from those which are not so certified.

Indication of geographical origin

3.—(1) Despite section 7(1)(*c*), a certification mark may be registered which consists of signs or indications which may serve, in trade, to designate the geographical origin of the goods or services.

(2) However, the proprietor of such a mark is not entitled to prohibit the use of the signs or indications in accordance with honest practices in industrial or commercial matters (in particular, by a person who is entitled to use a geographical name).

Nature of proprietor's business

4. A certification mark must not be registered if the proprietor carries on a business involving the supply of goods or services of the kind certified.

Mark not to be misleading as to character or significance

5.—(1) A certification mark must not be registered if the public is liable to be misled as regards the character or significance of the mark, in particular if it is likely to be taken to be something other than a certification mark.

(2) The Registrar may accordingly require that a mark in respect of which application is made for registration include some indication that it is a certification mark.

(3) Despite section 14(3), an application may be amended so as to comply with any such requirement.

Regulations governing use of certification mark

6.—(1) An applicant for registration of a certification mark must file with the Registrar regulations governing the use of the mark.

(2) The regulations must indicate who is authorised to use the mark, the characteristics to be certified by the mark, how the certifying body is to test those characteristics and to supervise the use of the mark, the fees (if any) to be paid in connection with the operation of the mark and the procedures for resolving disputes.

(3) Further requirements with which the regulations have to comply may be imposed by rules made under this Act.

Approval of regulations, etc.

7.—(1) A certification mark must not be registered unless —

(*a*) the regulations governing the use of the mark —

(i) comply with paragraph 6(2) and any further requirements imposed by rules; and

(ii) are not contrary to public policy or to accepted principles of morality; and

(*b*) the applicant is competent to certify the goods or services for which the mark is to be registered.

(2) Before the end of the prescribed period after the date of the application for registration of a certification mark, the applicant must file the regulations with the Registrar and pay the prescribed fee.

(3) If the applicant does not comply with sub-paragraph (2), the application is to be treated as withdrawn.

8.—(1) The Registrar must consider whether the requirements mentioned in paragraph 7(1) are met.

(2) If it appears to the Registrar that those requirements are not met, he or she must inform the applicant and give the applicant an opportunity, within such period as the Registrar may specify, to make representations or to file amended regulations.

(3) If the applicant responds within the specified period but fails to satisfy the Registrar that those requirements are met, or to file regulations that have been amended so as to meet those requirements, the Registrar may refuse the application.

(4) If the applicant fails to respond within the specified period, the application is to be treated as withdrawn.

(5) If it appears to the Registrar that —

(*a*) the requirements mentioned in paragraph 7(1) are met; and

SECOND SCHEDULE — *continued*

(*b*) the other requirements for registration in relation to all or some of the goods or services for which registration is sought are met,

the Registrar must accept the application in relation to the goods or services for which the requirements for registration are met and must proceed in accordance with section 13.

[Act 7 of 2022 wef 26/05/2022]

9. The regulations must be published and notice of opposition may be given relating to the matters mentioned in paragraph 7(1), in addition to any other grounds on which the application may be opposed.

Regulations to be open to inspection

10. The regulations governing the use of a registered certification mark must be open to public inspection in the same way as the register.

Amendment of regulations

11.—(1) An amendment of the regulations governing the use of a registered certification mark is not effective unless and until the amended regulations are filed with the Registrar and accepted by him or her.

(2) Before accepting any amended regulations, the Registrar may, in any case where it appears to him or her expedient to do so, cause them to be published.

(3) If the Registrar causes the regulations to be published, notice of opposition may be given relating to the matters mentioned in paragraph 7(1).

Consent to assignment of registered certification mark

12. The assignment or other transmission of a registered certification mark is not effective without the consent of the Registrar.

Infringement: rights of authorised users

13. The following provisions apply in relation to an authorised user of a registered certification mark as in relation to a licensee of a trade mark —

(*a*) section 27(5);

(*b*) section 82.

14. In infringement proceedings brought by the proprietor of a registered certification mark, any loss suffered or likely to be suffered by authorised users must be taken into account; and the Court may give such directions as it thinks fit

as to the extent to which the claimant is to hold the proceeds of any pecuniary remedy on behalf of such users.

[Act 25 of 2021 wef 01/04/2022]

Grounds for revocation of registration

15. Apart from the grounds of revocation provided for in section 22, the registration of a certification mark may be revoked on the ground —

(*a*) that the proprietor has begun to carry on such a business as is mentioned in paragraph 4;

(*b*) that the manner in which the mark has been used by the proprietor has caused it to become liable to mislead the public in the manner referred to in paragraph 5(1);

(*c*) that the proprietor has failed to observe, or to secure the observance of, the regulations governing the use of the mark;

(*d*) that an amendment of the regulations has been made so that the regulations —

(i) no longer comply with paragraph 6(2) and any further conditions imposed by rules; or

(ii) are contrary to public policy or morality; or

(*e*) that the proprietor is no longer competent to certify the goods or services for which the mark is registered.

Grounds for invalidity of registration

16. Apart from the grounds of invalidity provided for in section 23, the registration of a certification mark may be declared invalid on the ground that the mark was registered in breach of the provisions of paragraph 4, 5(1) or 7(1).

[42/2005]

THIRD SCHEDULE

Sections 2(1) and 109

TRANSITIONAL PROVISIONS

Introductory

1.—(1) In this Schedule, unless the context otherwise requires —

"existing registered mark" means a trade mark or certification trade mark registered under the Trade Marks Act (Cap. 332, 1992 Revised Edition) immediately before 15 January 1999;

"the old law" means the repealed Act and any other enactment or rule of law applying to existing registered marks immediately before 15 January 1999.

(2) For the purposes of this Schedule —

(*a*) an application is to be treated as pending on 15 January 1999 if it was made but not finally determined before that date; and

(*b*) the date on which it was made is the date of filing under the repealed Act.

Existing registered marks

2.—(1) Any existing registered mark, whether registered in Part A or B of the register kept under the repealed Act, is a registered trade mark for the purposes of this Act.

(2) Any existing registered mark registered as a certification trade mark in the register kept under the repealed Act is a registered certification mark for the purposes of this Act.

(3) Any existing registered mark registered as a series of trade marks in the register kept under the repealed Act is similarly registered in the new register for the purposes of this Act.

(4) In any other case, any note indicating that an existing registered mark is associated with any other mark ceases to have effect on 15 January 1999.

3.—(1) A condition entered in the register kept under the repealed Act in relation to an existing registered mark immediately before 15 January 1999 ceases to have effect on that date.

(2) Proceedings under section 39(3) of the repealed Act which are pending on 15 January 1999 must be dealt with under the old law and any necessary alteration made to the new register.

THIRD SCHEDULE — *continued*

(3) A disclaimer or limitation entered in the register kept under the repealed Act in relation to an existing registered mark immediately before 15 January 1999 is deemed to be transferred to the new register and has effect as if entered in the register pursuant to section 30 of this Act.

Effects of registration: infringement

4.—(1) Sections 26 to 29 of this Act apply in relation to an existing registered mark as from 15 January 1999 and section 31 of this Act applies in relation to infringement of an existing registered mark committed after that date, subject to sub-paragraph (3).

(2) The old law continues to apply in relation to infringements committed before 15 January 1999.

(3) It is not an infringement of —

(*a*) an existing registered mark; or

(*b*) a registered trade mark of which the distinctive elements are the same or substantially the same as those of an existing registered mark and which is registered for the same goods or services,

to continue after commencement any use which did not amount to infringement of the existing registered mark under the old law.

Infringing goods, material or articles

5. Section 33 of this Act applies to infringing goods, material or articles whether made before or after 15 January 1999.

Rights and remedies of licensee or authorised user

6.—(1) Section 44 of this Act applies to licences granted before 15 January 1999, but only in relation to infringements committed after that date.

(2) Paragraph 14 of the Second Schedule of this Act applies only in relation to infringements committed after 15 January 1999.

Co-ownership of registered mark

7.—(1) Subject to sub-paragraph (2), the provisions of section 37 of this Act apply as from 15 January 1999 to an existing registered mark of which 2 or more persons were immediately before that date registered as joint proprietors.

THIRD SCHEDULE — *continued*

(2) So long as the relations between the joint proprietors remain such as are described in section 12(11) of the repealed Act, there is to be taken to be an agreement to exclude the operation of section 37(1) and (3) of this Act.

Assignment, etc., of registered mark

8.—(1) Section 38 of this Act applies to transactions and events occurring after 15 January 1999 in relation to an existing registered mark; and the old law continues to apply in relation to transactions and events occurring before that date.

(2) Entries in the register kept under the repealed Act relating to the assignment of registered trade marks and of the benefits of applications for registration of trade marks are deemed to be transferred on 15 January 1999 to the register kept under this Act and have effect as if made under section 39 of this Act.

(3) Provision may be made by rules for putting entries mentioned in sub-paragraph (2) in the same form as is required for entries made under this Act.

(4) An application for registration of an assignment of a registered trade mark or of an assignment of the benefits of an application for registration of a trade mark, made to the Registrar before 15 January 1999, is to be treated as an application for registration under section 39 of this Act and must proceed accordingly.

(5) The Registrar may require the applicant to amend the applicant's application so as to conform with the requirements of this Act.

(6) An application for registration under section 43 of the repealed Act which has been determined by the Registrar but not finally determined before 15 January 1999 must be dealt with under the old law; and sub-paragraphs (2) and (3) apply in relation to any resulting entry in the register.

(7) Where before 15 January 1999 a person has become entitled by assignment or transmission to an existing registered mark but has not registered the person's title, any application for registration after that date must be made under section 39 of this Act.

(8) In cases to which sub-paragraph (4) or (7) applies, section 43(2) of the repealed Act continues to apply (and section 39(3) and (4) of this Act do not apply) as regards the consequences of failing to register.

Licensing of registered mark

9.—(1) Sections 42 and 43(2) of this Act apply only in relation to licences granted after 15 January 1999; and the old law continues to apply in relation to licences granted before that date.

(2) Existing entries under section 30 of the repealed Act are deemed transferred on 15 January 1999 to the register kept under this Act and have effect as if made under section 39 of this Act.

(3) Provision may be made by rules for putting entries mentioned in sub-paragraph (2) in the same form as is required for entries made under this Act.

(4) An application for registration as a registered user which is pending before the Registrar on 15 January 1999 is to be treated as an application for registration of a licence under section 39(1) of this Act and must proceed accordingly.

(5) The Registrar may require the applicant to amend the applicant's application so as to conform with the requirements of this Act.

(6) An application for registration as a registered user which has been determined by the Registrar but not finally determined before 15 January 1999 must be dealt with under the old law; and sub-paragraphs (2) and (3) apply in relation to any resulting entry in the register.

(7) Any proceedings pending on 15 January 1999 under section 30(9) or (10) of the repealed Act must be dealt with under the old law and any necessary alteration made to the new register.

Pending applications for registration

10.—(1) Subject to paragraph 11, an application for registration of a mark under the old law which is pending on 15 January 1999 must be dealt with under the old law, and if registered the mark is to be treated for the purposes of this Schedule as an existing registered mark.

(2) The power of the Minister under section 108 of this Act to make rules regulating practice and procedure, and as to the matters mentioned in subsection (2) of that section, is exercisable in relation to such an application; and different provision may be made for such applications from that made for other applications.

(3) Section 26 of the repealed Act must be disregarded in dealing after 15 January 1999 with an application for registration.

(4) Subject to sub-paragraph (6), a mark must not be registered under this paragraph if it contains or consists of a geographical indication in respect of a wine or spirit and the mark is used or intended to be used in relation to a wine or spirit not originating from the geographical origin indicated by the geographical indication.

(5) Sub-paragraph (4) applies whether or not the mark has, or is accompanied by, an indication of the true geographical origin of the wine or spirit (as the case

may be) or an expression such as "kind", "type", "style", "imitation" or the like, and irrespective of the language the geographical indication is expressed in that trade mark.

(6) A mark must not be refused registration by virtue of sub-paragraph (4) if the application had been made in good faith, or if it had been used continuously in good faith in the course of trade by the applicant for its registration or the applicant's predecessor in title, either —

(*a*) before 15 January 1999; or

(*b*) before the geographical indication concerned is protected in its country of origin.

(7) A mark must not be refused registration by virtue of sub-paragraph (4) if the geographical indication in question —

(*a*) has ceased to be protected; or

(*b*) has fallen into disuse,

in its country of origin.

Conversion of pending application

11.—(1) In the case of a pending application for registration which has not been advertised under section 18 of the repealed Act before 15 January 1999, the applicant may give notice to the Registrar claiming to have the registrability of the mark determined in accordance with the provisions of this Act.

(2) The notice must be in the relevant form published by the Registrar under section 76 of this Act, be accompanied by the appropriate fee and be given no later than 6 months after 15 January 1999.

(3) Notice duly given is irrevocable and has the effect that the application is to be treated as if made immediately after 15 January 1999.

Claim to priority from overseas application

12. Section 10 of this Act applies to an application for registration under this Act made after 15 January 1999 even though the Convention application was made before that date.

13.—(1) Where, before 15 January 1999, a person has duly filed an application for protection of a trade mark in a foreign state to which section 75 of the repealed Act applies which is not a Convention country (called in this paragraph a relevant overseas application), the person, or the person's successor in title, has a right to priority, for the purposes of registering the same trade mark under this Act for

some or all of the same goods or services, for a period of 6 months from the date of filing of the relevant overseas application.

(2) If the application for registration under this Act is made within that 6 month period —

(*a*) the relevant date for the purposes of establishing which rights take precedence is the date of filing of the relevant overseas application; and

(*b*) the registrability of the trade mark is not affected by any use of the mark in Singapore in the period between that date and the date of the application under this Act.

(3) Any filing which in a foreign state mentioned in sub-paragraph (1) is equivalent to a regular national filing, under its domestic legislation or an international agreement, is deemed to give rise to the right of priority.

(4) For the purposes of sub-paragraph (3), a "regular national filing" means a filing which is adequate to establish the date on which the application was filed in that country, whatever may be the subsequent fate of the application.

(5) A subsequent application concerning the same subject as the relevant overseas application, filed in the same country, is to be considered the relevant overseas application (of which the filing date is the starting date of the period of priority), if at the time of the subsequent application —

(*a*) the previous application has been withdrawn, abandoned or refused, without having been laid open to public inspection and without leaving any rights outstanding; and

(*b*) it has not yet served as a basis for claiming a right of priority,

and the previous application may not thereafter serve as a basis for claiming a right of priority.

(6) The Minister may make rules to provide for the manner of claiming a right to priority on the basis of a relevant overseas application.

(7) A right to priority arising as a result of a relevant overseas application may be assigned or otherwise transmitted, either with the application or independently, and the reference in sub-paragraph (1) to the applicant's "successor in title" is to be construed accordingly.

(8) Nothing in this paragraph affects proceedings on an application for registration under the repealed Act made before 15 January 1999.

THIRD SCHEDULE — *continued*

Renewal of registration

14. Section 19 of this Act applies where the renewal of an existing registered mark falls due on or after 15 January 1999; and the old law continues to apply in any other case.

Pending application for alteration of registered mark

15. An application under section 38 of the repealed Act which is pending on 15 January 1999 must be dealt with under the old law and any necessary alteration made to the new register.

Revocation for non-use

16.—(1) An application under section 40 of the repealed Act which is pending on 15 January 1999 must be dealt with under the old law and any necessary alteration made to the new register.

(2) An application under section 22(1)(*a*) or (*b*) of this Act may be made in relation to an existing registered mark at any time after 15 January 1999.

(3) However, no application mentioned in sub-paragraph (2) for the revocation of the registration of an existing registered mark registered by virtue of section 41 of the repealed Act may be made until more than 5 years after 15 January 1999.

Application for rectification, etc.

17.—(1) An application under section 37 or 39 of the repealed Act which is pending on 15 January 1999 must be dealt with under the old law and any necessary alteration made to the new register.

(2) For the purposes of proceedings under section 23 of this Act as it applies in relation to an existing registered mark, the provisions of this Act are deemed to have been in force at all material times, except that no objection to the validity of the registration of an existing registered mark may be taken on the ground specified in section 8(3) of this Act.

Regulations governing use of certification mark

18.—(1) Regulations governing the use of an existing registered certification mark transmitted to the Registrar pursuant to section 68 of the repealed Act are to be treated after 15 January 1999 as if filed under paragraph 6 of the Second Schedule to this Act.

(2) Any request for amendment of the regulations which was pending on 15 January 1999 must be dealt with under the old law.

THIRD SCHEDULE — *continued*

Certificate of validity of contested registration

19. A certificate given before 15 January 1999 under section 54 of the repealed Act has effect as if given under section 102 of this Act.

LEGISLATIVE HISTORY

TRADE MARKS ACT 1998

This Legislative History is a service provided by the Law Revision Commission on a best-efforts basis. It is not part of the Act.

1. Act 46 of 1998 — Trade Marks Act 1998

Date of First Reading	:	12 October 1998 (Bill No. 42/1998 published on 13 October 1998)
Date of Second and Third Readings	:	26 November 1998
Date of commencement	:	15 January 1999 (except section 54) 31 October 2000 (section 54)

2. 1999 Revised Edition — Trade Marks Act
(G.N. No. S 2/2000 — Rectification Order)

Date of operation	:	30 December 1999

3. Act 28 of 2000 — Statutes (Miscellaneous Amendments and Repeal) Act 2000

Date of First Reading	:	25 August 2000 (Bill No. 22/2000 published on 26 August 2000)
Date of Second and Third Readings	:	9 October 2000
Date of commencement	:	1 November 2000

4. Act 3 of 2001 — Intellectual Property of Singapore Act 2001

Date of First Reading	:	12 January 2001 (Bill No. 1/2001 published on 13 January 2001)
Date of Second and Third Readings	:	22 February 2001
Date of commencement	:	1 April 2001

5. Act 4 of 2003 — Customs (Amendment) Act 2003

Date of First Reading	:	10 March 2003 (Bill No. 6/2003 published on 11 March 2003)

Date of Second and Third Readings	:	21 March 2003
Date of commencement	:	1 April 2003

6. Act 20 of 2004 — Trade Marks (Amendment) Act 2004

Date of First Reading	:	19 May 2005 (Bill No. 18/2004 published on 20 May 2004)
Date of Second and Third Readings	:	15 June 2004
Date of commencement	:	1 July 2004

7. 2005 Revised Edition — Trade Marks Act

Date of operation	:	31 July 2005

8. Act 42 of 2005 — Statutes (Miscellaneous Amendments) (No. 2) Act 2005

Date of First Reading	:	17 October 2005 (Bill No. 30/2005 published on 18 October 2005)
Date of Second and Third Readings	:	21 November 2005
Date of commencement	:	1 January 2006

9. Act 3 of 2007 — Trade Marks (Amendment) Act 2007

Date of First Reading	:	8 November 2006 (Bill No. 15/2006 published on 9 November 2006)
Date of Second and Third Readings	:	22 January 2007
Date of commencement	:	2 July 2007

10. Act 16 of 2012 — Intellectual Property (Miscellaneous Amendments) Act 2012

Date of First Reading	:	14 May 2012 (Bill No. 14/2012 published on 14 May 2012)
Date of Second and Third Readings	:	10 July 2012
Date of commencement	:	7 March 2014 13 November 2014

11. Act 4 of 2014 — Statutes (Miscellaneous Amendments) Act 2014

Date of First Reading	:	11 November 2013 (Bill No. 25/2013 published on 11 November 2013)
Date of Second and Third Readings	:	21 January 2014
Date of commencement	:	10 March 2014 (except sections 7(1)(*c*) and (*d*), 8(*c*) and (*d*) and 13(*a*) and (*b*)) 30 April 2014 (sections 7(1)(*c*) and (*d*), 8(*c*) and (*d*) and 13(*a*) and (*b*))

12. Act 16 of 2016 — Statutes (Miscellaneous Amendments) Act 2016

Bill	:	15/2016
First Reading	:	14 April 2016
Second and Third Readings	:	9 May 2016
Commencement	:	10 June 2016

13. Act 19 of 2014 — Geographical Indications Act 2014

Bill	:	13/2014
First Reading	:	5 March 2014
Second and Third Readings	:	14 April 2014
Commencement	:	1 April 2019

14. Act 34 of 2018 — Intellectual Property (Border Enforcement) Act 2018

Bill	:	24/2018
First Reading	:	17 May 2018
Second and Third Readings	:	9 July 2018
Commencement	:	10 October 2018 21 November 2019

15. Act 40 of 2019 — Supreme Court of Judicature (Amendment) Act 2019

Date of First Reading	:	7 October 2019 (Bill No. 32/2019)
Date of Second and Third Readings	:	5 November 2019
Date of commencement	:	2 January 2021

16. 2020 Revised Edition — Trade Marks Act 1998

Operation	:	31 December 2021

17. Act 25 of 2021 — Courts (Civil and Criminal Justice) Reform Act 2021 (Amendments made by)

Bill	:	18/2021
First Reading	:	26 July 2021
Second and Third Readings	:	14 September 2021
Commencement	:	1 April 2022

18. Act 7 of 2022 — Intellectual Property (Amendment) Act 2022

Bill	:	39/2021
First Reading	:	1 November 2021
Second and Third Readings	:	12 January 2022
Commencement	:	26 May 2022

19. Act 23 of 2019 — Intellectual Property (Dispute Resolution) Act 2019

Date of First Reading	:	8 July 2019 (Bill No. 17/2019)
Date of Second and Third Readings	:	5 August 2019
Date of commencement	:	21 November 2019 1 October 2021 10 June 2022

20. Act 31 of 2022 — Statutes (Miscellaneous Amendments) Act 2022 (Amendments made by the above Act)

Bill	:	24/2022
First Reading	:	12 September 2022
Second and Third Readings	:	3 October 2022
Commencement	:	1 November 2022 (sections 22(14) and 23(4))

21. Act 5 of 2025 — Electronic Gazette and Legislation Act 2025

Bill	:	47/2024
First Reading	:	11 November 2024
Second and Third Readings	:	7 January 2025

Commencement : 9 March 2025

Abbreviations

(updated on 29 August 2022)

G.N.	Gazette Notification
G.N. Sp.	Gazette Notification (Special Supplement)
L.A.	Legislative Assembly
L.N.	Legal Notification (Federal/Malaysian)
M.	Malaya/Malaysia (including Federated Malay States, Malayan Union, Federation of Malaya and Federation of Malaysia)
Parl.	Parliament
S	Subsidiary Legislation
S.I.	Statutory Instrument (United Kingdom)
S (N.S.)	Subsidiary Legislation (New Series)
S.S.G.G.	Straits Settlements Government Gazette
S.S.G.G. (E)	Straits Settlements Government Gazette (Extraordinary)

COMPARATIVE TABLE

TRADE MARKS ACT 1998

This Act has undergone renumbering in the 2020 Revised Edition. This Comparative Table is provided to help readers locate the corresponding provisions in the last Revised Edition.

2020 Ed.	2005 Ed.
7—(11)	**7**—(10A)
(12)	(10B)
(13)	(10C)
(14)	(11)
(15)	(12)
(16)	(13)
12—(5)	**12**—(4A)
(6)	(5)
40—(2)	**40**—(1A)
(3)	(2)
—	**54**—(4) [*Deleted by Act 16 of 2012*]