



TURKS AND CAICOS ISLANDS

CHAPTER 17.04
TRADE MARKS ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 December 2014

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

TRADE MARKS ORDINANCE

Ordinance 14 of 2007 .. in force 8 October 2007 (L.N. 30/2007)

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TRADE MARKS RULES – Section 70

Legal Notice 3/1983 .. in force 11 February 1983

Amended by Legal Notices: 17/1996 .. in force 16 February 1996

31/2000 .. in force 27 October 2000

17/2006 .. in force 21 July 2006

18/2009 .. in force 11 September 2009

21/2011 .. in force 29 July 2011

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CHAPTER 17.04
TRADE MARKS ORDINANCE

(Ordinance 14 of 2007)

AN ORDINANCE TO MAKE PROVISIONS FOR THE PROTECTION AND REGISTRATION OF TRADE MARKS; TO GIVE EFFECT TO CERTAIN PROVISIONS OF THE EUROPEAN UNION CONVENTION, FOR THE PROTECTION OF INDUSTRIAL PROPERTY AND TO PROVIDE FOR CONNECTED MATTERS.

Commencement

[8 October 2007]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Trade Marks Ordinance.

Interpretation

2. (1) In this Ordinance—

“business” includes a trade or profession;

“certification mark” means a mark indicating that the goods or services in connection with which it is used are certified by the proprietor of the mark in respect of origin, materials, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics, and the provisions of this Ordinance shall apply to certification marks subject to the provisions of the Schedule 2;

“collective mark” means a mark distinguishing the goods or services of members of the association which is the proprietor from those of other undertakings, and the provisions of the Ordinance apply to collective marks subject to the provisions of the Schedule 1;

“Commission” means the Financial Services Commission of the Turks and Caicos Islands established under section 4 of the repealed Financial Services Commission Ordinance* and continued under the Financial Services Commission Ordinance;

“Community trade mark” means the right of uniform protection throughout the entire area of the European Union as per article 1 (2) of the European Union Regulation EC No. 40/94 of 20th December 1993, as last revised;

* Ordinance 6 of 2001.

- “Convention country” means a country which is party to the European Union Convention for the Protection of Industrial Property;
- “Court” means the Supreme Court;
- “director” in relation to a body corporate whose affairs are managed by its members, means any member of the body;
- “European Union Regulations” means the European Regulations mentioned in section 60(1) of this Ordinance;
- “infringement proceedings” in relation to a registered trade mark, include proceedings for an order for delivering up of infringing goods;
- “priority date” means the date of the earlier application that serves as the basis for the right of priority provided for the United Kingdom Act and the European Union Convention;
- “publish” means make available to the public and references to publication—
- (a) in relation to an application for registration, are to publication under section 15(1); and
 - (b) in relation to registration, are to publication under section 17;
- “Register” means the Register of Trademarks, Certification Marks and Collective Marks referred to in section 3(1);
- “Registrar” means the Registrar of Trade Marks appointed by the Governor on recommendation of the Financial Services Commission;
- “trade mark” means any sign capable of being represented graphically which is capable of distinguishing goods or services of one undertaking from those of other undertakings and it may, in particular, consist of words (including personal names) designs, numerals, letters or the shape of goods or their packaging;
- “United Kingdom Act” means the United Kingdom Trade Marks Act 1994.
- (2) References in this Ordinance to a trade mark include, unless the context otherwise requires, reference to a collective mark or a certification mark.

PART II

ADMINISTRATIVE AND OTHER PROVISIONS

The Registrar and the Register

Registrar

3. (1) The Registrar shall be appointed by the Governor acting on the recommendation of the Commission and shall maintain a Register of Trade Marks, Certification Marks and Collective Marks in accordance with this Ordinance.

(2) The Registrar shall enter in the Register in accordance with this Ordinance—

- (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, certification marks and collective marks as may be prescribed.

(3) The Register shall be kept in such a manner as may be prescribed, and provision shall in particular be made for—

- (a) public inspection of the Register upon payment of the prescribed fee; and
- (b) the supply of certified or uncertified copies, or extracts, of entries in the Register.

Powers and duties of the Registrar

4. (1) The duties of the Registrar include—

- (a) management of the Registry and its staff,
- (b) receipt of application for registration of trade marks, certification marks, collective marks and Community trade mark rights under this Ordinance and the acceptance or rejection of such applications; and
- (c) collection of the appropriate fees payable upon applications for registration searches and all associated aspects.

(2) The Registrar may require the use of such forms as may be prescribed for any purpose relating to the registration of any trade mark or any proceedings before him under this Ordinance.

(3) The Registrar shall publish in the *Gazette* all applications for registration of any trademarks.

Information about applications and registered trade marks

5. (1) After publication of an application for registration of a trade mark, the Registrar shall on request, and upon payment of the prescribed fee, provide any person with such information and permit such person to inspect such documents relating to the application, or to any registered trade mark resulting from it, as may be specified in the request, subject, to any prescribed restrictions.

(2) Any request referred to in subsection (1) shall be made in the prescribed manner and shall be accompanied by the appropriate prescribed fee.

(3) Before publication of an application for registration of a trade mark, documents or information constituting or relating to the application shall not be published by the Registrar or communicated by him to any person except—

- (a) in such cases and to such extent as may be prescribed; or
- (b) with the consent of the applicant, but subject to the provisions of subsection (4).

(4) Where a person has been notified that an application for registration of a trade mark has been made, and that the applicant will, if the application is granted, bring proceedings against him in respect of acts done after publication of the application, such person may make a request under subsection (1), notwithstanding that the application has not been published, and subsection shall apply accordingly.

Rectification or correction of the Register

6. (1) Any person having a sufficient interest may apply in such form as may be prescribed for the rectification or correction of an error or omission in the Register except that an application shall not be made under this section in respect of a matter affecting the validity of the registration of a trade mark.

(2) An application for rectification or correction of the Register shall be made to the Registrar.

(3) The effect of a rectification or correction made under this section is that the error or omission shall be deemed never to have been made.

(4) 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 his name or address as recorded in the Register.

(5) The Registrar may, subject to the provisions of this Ordinance, remove from the register any matter which appears to him to have ceased to have effect and have the matter published in the *Gazette* as to its removal.

Adaptation of entries to new classification

7. (1) The Governor shall make Regulations empowering the Registrar to do such things as the Registrar considers necessary to implement any amended or substituted classification of goods or services for purposes of the registration of trade marks.

(2) Regulations made pursuant to this section may in particular provide for the amendment of existing entries on the Register so as to accord with any new classification.

(3) Any such power of amendment as is referred to this section shall not be exercised so as to extend the rights conferred by registration except where it appears to the Registrar that full compliance with this requirement would involve undue complexity and that any extension would not adversely affect the rights of any person.

(4) The Regulations may empower the Registrar—

(a) to require the proprietor of a registered trade mark, within such time as may be prescribed, to file a proposal for amendment of the register;

(b) to cancel or refuse to renew the registration of the trade mark in the event of the proprietor failing to do so.

(5) Any proposal under subsection (4)(a) shall be advertised in the *Gazette* and may be opposed in such manner as may be prescribed.

Power of Registrar to award Costs and require security

8. (1) The Governor shall make regulations empowering the Registrar, in any proceedings before him under this Ordinance—

- (a) to award any party such costs as he may consider reasonable;
- (b) to direct how and by what parties costs are to be paid; and
- (c) in appropriate cases, to require a party to proceedings before him to give security for costs, in relation to those proceedings on appeal, and as to the consequences if such security is not given.

(2) An order of the Registrar made pursuant to subsection (1) may be enforced in the same way as an order of the Court.

(3) The Regulations under this section may make provisions as to the giving of evidence before the Registrar by affidavit or statutory declaration.

Exclusion of liability in respect of official acts

9. (1) The Registrar shall not be taken to warrant the validity of the registration of a trade mark under this Ordinance or under any treaty, convention, arrangement or engagement to which the Turks and Caicos Islands is a party.

(2) The Registrar is not subject to any liability by reason of, or in connection with, any examination required or authorised under this Ordinance or any such treaty, convention arrangement or engagement, or any other report proceedings consequent on such examination.

(3) No proceedings shall lie against any member of staff of the office of the Registrar in respect of any matter for which, by virtue of this section, the Registrar is not liable.

Register

10. (1) The Registrar shall publish in the Register a Notice of the Registration of any trade mark.

(2) The Register shall contain all such particulars of any application for the registration of a trade mark as may be prescribed (including a representation of the mark) and such other information relating to the trade mark as the Registrar thinks fit.

PART III

REGISTRATION OF TRADE MARKS

Application for registration

Application for Registration

11. (1) An application for the registration of a trade mark shall be made to the Registrar.

- (2) The application shall contain—
- (a) a request for registration of a trade mark;
 - (b) the name and address of the applicant;
 - (c) the name and address of the appointed agent;
 - (d) a statement of the goods or services in relation to which it is sought to register the trade mark;
 - (e) the classification of the goods or services; and
 - (f) a representation of the trade mark.

(3) The application shall state that the trade mark is being used, by the applicant or with his consent, in relation to those goods or services, or that he has a *bona fide* intention that it should be used.

(4) The application shall be subject to payment of the application fee and such class fees as the Registrar thinks fit.

Date of filing

12. (1) The date of filing of an application for registration of a trade mark is the date on which documents containing everything required by section 11 (2) are furnished to the Registrar by the applicant.

(2) If the documents are furnished on different days, the date of filing is the last of those days.

Classification of trade marks

13. (1) Goods and services shall be classified for the purposes of the registration of trade marks according to the prescribed system of classification.

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

Registration Procedure

Examination of application

14. (1) The Registrar shall examine whether an application for registration of a trade mark satisfies the requirements of this Ordinance (including any requirements imposed by Regulations).

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

(3) If it appears to the Registrar that the requirements for registration are not met, he shall inform the applicant and give him an opportunity, within such period as the Registrar may specify, to make representations or to amend the application.

(4) If the applicant fails to satisfy the Registrar that requirements for registration are met or to amend the application so as to meet them, or fails to respond before the end of the specified period, the Registrar shall refuse to accept the application.

(5) If it appears to the Registrar that the requirements for registration are met, he shall accept the application.

(6) When registration of a trade mark is not completed within six months from the date of application by reason of default on the part of the applicant, the Registrar, after giving notice of the non-completion to the applicant in writing, may treat the application as abandoned, unless the applicant completes the application within such time as the Registrar shall specify in such notice.

Proceedings and observations

15. (1) When an application for registration has been accepted, the Registrar shall cause the application to be published in the *Gazette*, in the prescribed manner.

(2) Any person may within one month from the date of the publication of the application, give notice to the Registrar of opposition to the registration.

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

(4) Where an application has been published, any person, at any time before the registration of the trade mark, may make observations in writing to the Registrar as to whether the trade mark should be registered and the Registrar shall inform the applicant of any observations.

(5) A person who makes observations does not thereby become a party to the proceedings on the application.

Withdrawal, restriction or amendment of application

16. (1) The applicant may at any time withdraw his application or restrict the goods or services covered by the application.

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

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

- (a) the name and address of the applicant;
- (b) errors of wording or of copying; or
- (c) obvious mistakes,

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

(4) Provision shall be made by Regulations for the publication of any amendment which affects the representation of the trade mark, or the goods or

services covered by the application, and for the making of objections by any person claiming to be affected by it.

Registration

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

- (a) no notice of opposition is given within the period referred to in section 15(2); or
- (b) all opposition proceedings are withdrawn or decided in favour of the applicant,

the Registrar shall register the trade mark, unless it appears to him having regard to matters coming to his notice since he accepted the application that it was accepted in error.

(2) A trade mark shall not be registered unless the fees prescribed for the application and registration are paid within the prescribed period and if the fees are not paid within that period, the application shall be deemed to be withdrawn.

(3) A trade mark when registered shall be registered as of the date of filing of the application for registration and that date shall be deemed for the purpose of this Ordinance to be the date of registration.

Registrations: Supplementary Provisions

18. The Governor may make provision by Regulations as to—

- (a) the division of an application for the registration of a trade mark into several applications;
- (b) the merging of separate applications or registrations;
- (c) the registration of a series of trade marks;
- (d) defensive regulation of well known trade marks; and
- (e) standards of trade marks.

Duration, renewal annual fees and alteration of registered Trade Mark

Duration of registration

19. (1) A trade mark shall be registered for a period of ten years from the date of registration.

(2) Registration may be renewed in accordance with section 20 for further periods of ten years.

Renewal of registration

20. (1) The registration of a trade mark may be renewed at the request of the proprietor, subject to payment of the prescribed renewal fee.

(2) The Governor may by regulations provide 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 shall be made, and the renewal fee paid, before the expiry of the registration and failing this, the request may be made and the fee paid within such further period (of not less than six months) as may be prescribed, in which case an additional renewal fee shall also be paid within that period.

(4) Renewal shall take effect from the expiry of the previous registration.

(5) If the registration is not renewed in accordance with the above provisions, the Registrar shall remove the mark from the register and publish it in the *Gazette*.

(6) The Governor may by regulations 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.

(7) The renewal or restoration of the registration of a trade mark shall be published in the *Gazette* in the prescribed manner.

Annual fees

21. (1) The proprietor of a trade mark recorded in the Registry must on the 1 January of each year pay to the Registrar the annual fee prescribed.

(2) Default in the payment of the annual fee for more than one month causes the rights protected by the recorded entry to be in abeyance as against the person in default from the relevant 1st January until the fee is paid.

Alteration of registered trade mark

22. (1) A registered trade mark shall not be altered in the Register, during renewal.

(2) Notwithstanding subsection (1) 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 does not substantially affect the identity of the mark.

(3) The Governor may by regulations provide for the publication of any such alteration and the making of objections by any person claiming to be affected by it.

Registered trade mark

23. (1) A registered trade mark is a property right obtained by the registration of the trade mark under this Ordinance and the proprietor of a registered trade mark has the rights and remedies provided by this Ordinance.

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

*Effects of registered trade marks.***Rights conferred by registered trade mark**

24. (1) Subject to the provisions of this Ordinance, the proprietor of a registered trade mark has exclusive rights in the trade mark which are infringed by use of the trade mark in the Islands without his consent.

(2) The acts amounting to infringement, if done without the consent of the proprietor, are specified in section 25, and references in this Ordinance to the infringement of a registered trade mark are to any such infringement of the rights of the proprietor.

(3) The rights of the proprietor have effect from the date of registration (which in accordance with of section 17 (3) is the date of filing of the application for registration).

Provided 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 75 is committed by anything done before the date of publication of the registration.

Infringement of registered trade marks

25. (1) A person infringes a registered trade mark if he uses in the course of trade a sign or mark which is identical with the trademark and is used 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 he uses in the course of a trade a sign where—

- (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;
- (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; or
- (c) there exists a likelihood of confusion on the part of the public which includes the likelihood of association with the trade mark.

(3) A person infringes a registered trade mark if he uses in the course of a trade a sign which—

- (a) is identical with or similar to the trade mark; and
- (b) is used in relation to goods or services which are similar for those which the trade mark is registered, where the trade mark has a reputation in the United Kingdom, the European Union or the Islands and the use of the sign, being without due cause, takes unfair advantage of, or is detrimental to, the distinctive character of the repute of the trade mark.

(4) For the purpose of this section a person uses a sign if, in particular, he—

- (a) affixes it to goods or the packaging thereof;
- (b) offers or exposes goods for sale, puts them on the market or stock them for those purposes under the sign, or offers or supplies services under the sign;
- (c) imports or exports goods under the sign; or
- (d) uses the sign on business papers or in advertising.

(5) A person who applies a registered trade mark to material intended to be used for labeling or packaging goods or services as a business paper, or for advertising goods or services, shall be treated as a party to any use of the material which infringes the registered trade mark if when he applies the mark he knew or had reason to believe that the application of the trade mark was not duly authorised by the proprietor or a licensee of the registered trademark.

(6) Nothing in the preceding provisions of this section shall be construed as preventing the use of a registered trade mark by any person for the purpose of identifying goods or services as those of the proprietor or a licensee, but any such use otherwise than in accordance with honest practices in industrial or commercial matters shall be treated as infringing the registered trade mark if the use without due cause takes unfair advantage of, or is detrimental to, the distinctive character or repute of the registered trade mark.

Limits on effect of registered trade mark

26. (1) Subject to section 47 (6), 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.

(2) A registered trade mark is not infringed by—

- (a) the use by a person of his own name or address;
- (b) the use of indications concerning 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; or
- (c) the use of the trade mark where it is necessary to indicate the intended purpose of a product or service (in particular, as accessories or spare parts):

Provided the use is in accordance with honest practices in industrial or commercial matters.

(3) A registered trade mark is not infringed by the use in the course of trade in a particular locality of an earlier right which applies only in that locality, and for this purpose an “earlier right” means an unregistered trade mark or other sign continuously used in relation to goods or services by a person or a predecessor in title of his from a date prior to whichever is the earlier of—

- (a) the use of the first-mentioned trade mark in relation to those goods or services by the proprietor or a predecessor in title of his; or
- (b) the registration of the first-mentioned trade mark in respect of those goods or services in the name of the proprietor or a predecessor in title of his, and an earlier right shall be regarded as applying in a locality if, or to the extent that, its use in virtue of any rule of law (in particular, the law of passing off).

Exhaustion of rights conferred by registered trade mark

27. (1) 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 in the CARICOM Single Market and Economy under that trade mark by the proprietor or with his consent.

(2) Subsection (1) does not apply where there exist legitimate reasons for the proprietor to oppose further dealings in the goods (in particular, where the condition of the goods has been changed or impaired after they have been put on the market).

Registration subject to disclaimer

28. (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 shall be subject to a specified territorial or other limitation, and where the registration of a trade mark is subject to a disclaimer or limitation, the rights conferred by section 24 are restricted accordingly.

(2) The Governor may by Regulations provide for the publication and entry in the Register of a disclaimer or limitation.

Registered trade mark as object of property

Nature of registered trade mark

29. A registered trade mark is personal property.

Co-ownership of registered trade mark

30. (1) Where a registered trade mark is granted to two 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) The following provisions apply where two or more persons as 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 or his agents, to do for his 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 trademark; or

(b) assign or change his share in the registered trademark.

(5) Infringement proceedings may be brought by any proprietor, but he may not, without the leave of the Court, proceed with the action unless the other, or each of the others, is either joined as a plaintiff or added as a defendant and shall not be made liable for any costs in the action unless he takes part in the proceedings and nothing in this subsection affects the granting of interlocutory relief on the application of a single co-proprietor.

(6) 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

31. (1) A registered trade mark is transmissible by assignment, testamentary disposition or operation of law in the same way as other personal or moveable property and it is so transmissible either in connection with the goodwill of a business or independently.

(2) An assignment or other transmission of a registered trade mark may be partial, that is, limited so as to apply—

(a) in relation to some but not all of the goods or services for which the trade mark is registered; or

(b) in relation to use of the trade mark in a particular locality.

(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 representative, and this requirement may be satisfied in a case where the assignor or personal representatives is a body corporate by the affixing of its seal.

(4) The above provisions apply to assignment by way of security as in relation to any assignment.

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

(6) Nothing in this Ordinance shall be construed as affecting the assignment or other transmission of an unregistered trade mark as part of the goodwill of a business.

Registration of transactions affecting registered trade mark

32. (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 shall be entered in the Register.

(2) The following are registrable transactions—

- (a) an assignment of a registered trade mark or any right in it;
- (b) the grant of a licence under the 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 a 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 registration of a prescribed particulars of a registrable transaction—

- (a) the transaction is ineffective as against a person acquiring a conflicting interest in or under the registered trade mark in ignorance of it; and
- (b) a person claiming to be a licensee by virtue of the transaction does not have the protection of sections 43 and 44.

(4) Where a person becomes the proprietor or a licensee of a registered trade mark by virtue of a registrable transaction, unless—

- (a) an application for registration of the prescribed particulars of the transaction is made before the end of the period of six months beginning with its date; or
- (b) the Court is satisfied that it was not practicable to be made before the end of that period and that an application was made as soon as practicable thereafter,

he is not entitled to damages or an account of profits in respect of any infringements of the registered trade mark occurring after the date of the transaction and before the prescribed particulars of a registrable transaction.

(5) The Governor may make provision by regulations 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 intention to remove the particulars from the Register;
- (c) the amendment 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.

Trust and equities

33. (1) No notice of any trust (express, implied or constructive) shall be entered in the Register, and the Registrar shall not be affected by any such notice.

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

Application for registration of trade mark as an object of property

34. (1) The provisions of sections 29 to 33 apply with the necessary modifications, in relation to an application for registration of a trade mark as in relation to a registered trade mark.

(2) In section 30 as it applies in relation to an application for registration, the reference in subsection (1) to the granting of the registration shall be construed as a reference to the making of the application.

(3) In section 32 as it applies in relation to a transaction affecting an application for the registration of a trade mark, the references to the entry of particulars in the register, and to the making of an application to register particulars, shall be construed as references to the giving of notice to the Registrar of those particulars.

Grounds for refusal of registration

Grounds for refusal of registration

35. (1) The following shall not be registered—

- (a) signs which do not satisfy the requirements of the definition of a trade mark;
- (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 rendering of services, or other characteristics of goods or services;

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

Provided that, a trade mark shall not be refused registration by virtue of paragraph (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.

(2) A sign shall 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.

(3) A trade mark shall not be registered if it is—

- (a) contrary to public policy or to accepted principles of morality; or
 (b) of such nature as to deceive the public (for instance as to the nature, quality or geographical origin of the goods or service).

(4) A trade mark shall not be registered if or to the extent that its use is prohibited in the Islands by any Ordinance, or law.

(5) A trade mark shall not be registered in the cases specified, or referred to in section 36.

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

Specially protected emblems

36. (1) A trade mark which consists of or contains—

- (a) national flags, insignia of Royalty and International Organisations, and Coat of Arms, and to the extent that the application is made in bad faith;
 (b) words, letters or devices likely to lead persons to think that the applicant either has or recently has had Government patronage or authorisation,

shall not be registered unless it appears to the Registrar that consent has been given by or on behalf of the Government.

(2) A trade mark shall not be registered if it falls in one of the categories referred to in section 62 or section 63.

Relative grounds for refusal of registration

37. (1) A trade mark shall not be registered if it is identical with an earlier trade mark and the goods and services for which the trade mark is applied for are identical with the goods or services for which the earlier trade mark is protected.

(2) A trade mark shall not be registered if—

- (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, which includes the likelihood of association with the earlier trade mark.

(3) A trade mark which—

- (a) is identical with or similar to an earlier trademark; and
- (b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the Islands and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

(4) A trade mark shall not be registered if, or to the extent that, its use in the Islands is liable to be prevented 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.

(5) A person who is entitled to prevent the use of a trade mark is referred to in this Ordinance as the proprietor of an “earlier right” in relation to the trade mark.

(6) Nothing in this section prevents the registration of a trade mark where the proprietor of the earlier trade mark or other earlier right consents to the registration.

Meaning of “earlier trade mark”

38. (1) In this Ordinance an “earlier trade mark” means—

- (a) a registered trade mark or an international trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the trade mark; 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 entitled to protection under the United Kingdom Act or the European Union Convention for the protection of Industrial Property as a well known trade mark.

(2) References in this Ordinance to an earlier trade mark include 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 subsection (1)(a) or (b), subject to its being so registered.

(3) A trade mark within subsection (1)(a) or (b) whose registration expires shall continue to be taken into account in determining the registrability of a later mark for a period of one year after the expiry, unless the Registrar is satisfied that there was no *bona fide* use of the mark during two years immediately preceding the expiry.

Raising of relative grounds in case of honest concurrent use

39. (1) This section applies 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 subsection (1), (2) or (3) of section 37, obtain; or
- (b) that there is an earlier right in relation to which the condition set out in section 37 (4) is satisfied, but the applicant shows to the satisfaction of the Registrar that there has been honest concurrent use of the trade mark for which registration is sought.

(2) In a case where this section applies the Registrar shall 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.

(3) For the purpose of this section “honest concurrent use” means such use in the Islands, by the applicant or with his consent, at the same time the use is made by the proprietor of the earlier trademark or with his consent under any earlier law to this Ordinance relating to trade marks in the Islands.

(4) Nothing in this section affects—

- (a) the refusal of registration on the grounds mentioned in section 35; or
- (b) the making of an application for a declaration on invalidity under section 47 (2).

(5) This section shall apply when there is an order in force under section 40.

Power to require that relative grounds be raised in opposition proceedings

40. (1) The Governor may make Regulations that provide that in any case a trade mark shall not be refused registration on a ground mentioned in section 37 unless objection on that ground is raised in opposition proceedings by the proprietor of the earlier trade mark or other earlier right.

(2) The Regulations may make such consequential provisions as appears to the Governor appropriate—

- (a) with respect to the carrying out by the Registrar of searches of earlier trade marks; and

(b) as to the person by whom an application for a declaration of invalidity may be made on the grounds specified in section 37(2).

(3) Regulations making such provision as is mentioned in subsection (2)(a) may direct that so much of section 14 as requires a search to be carried out shall cease to have effect.

(4) An order making such provisions as are mentioned in subsection (2)(b) may provide that so much of section 47(3) as provides that any person may make an application for a declaration of invalidity shall have effect subject to the provisions of the order.

(5) An order under this section may contain such transitional provisions as appear to the Governor to be appropriate.

Licence to use trade mark

41. (1) A licence to use a registered trade mark may be general or limited but a limited licence may, in particular, apply—

(a) in relation to some but not all of the goods or services for which the trade mark is registered; or

(b) in relation to use of the trade mark in a particular manner or a particular locality.

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

(3) Unless the licence provides otherwise, it is binding on a successor in title to the grantor's interest.

(4) References in the Ordinance to doing anything with or without, the consent of the proprietor of a registered trade mark shall be construed as including, in appropriate cases, references requiring the consent of the licensee, as the case may be.

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

Exclusive licence

42. (1) In this Ordinance 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” shall be construed accordingly.

(2) An exclusive licensee has the same rights against a successor in title who is bound by the licence as he has against the person granting the licence.

General provisions as to rights of licensees in case of infringement

43. (1) This section has effect with respect to the rights of a licensee in relation to infringement of a registered trade mark but the provisions of this

section do not apply where or to the extent that, by virtue of section 44(1) the licensee has a right to bring proceedings in his own name.

(2) A licensee is entitled, unless his licence through which his 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 his interests.

(3) If the proprietor—

(a) refuses to do so; or

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

the licensee may bring the proceedings in his own name as if he were the proprietor.

(4) Where infringement proceedings are brought by a licensee by virtue of this section, the licensee may not, without the leave of the Court, proceed with the action unless the proprietor is either joined as a plaintiff or added as a defendant but this does not affect the granting of interlocutory relief on an application by a licensee alone.

(5) A proprietor who is added as a defendant as mentioned in subsection (4) shall not be made liable for any costs in the action unless he takes part in the proceedings.

(6) In infringement proceedings brought by the proprietor of a registered trade mark any loss suffered or likely to be suffered by licensees shall be taken into account and the Court may give such directions as it thinks fit as to the extent to which the plaintiff is to hold the proceeds of any pecuniary remedy on behalf of the licensees.

(7) The provisions of this section apply in relation to an exclusive licensee if or to the extent that he has, by virtue of section 44 (1), the rights and remedies of an assignee as if he were the proprietor of the registered trade mark.

Exclusive licensee having rights and remedies of assignee

44. (1) An exclusive licence may provide that the licensee shall have, 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 and, where or to the extent that such provision is made, the licensee is entitled, subject to the provisions of the licence and to the following provisions of this section, to bring infringement proceedings against any person other than the proprietor, in his own name.

(2) 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 Ordinance relating to infringement shall be construed accordingly.

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

(4) Where proceedings for infringement of a registered trade mark brought by the proprietor of an exclusive licensee relate wholly or partly to an infringement in respect of which they have concurrent rights of action, the proprietor or, as the case may be, the exclusive licensee may not, without the leave of the Court, proceed with the action unless the other is either joined as a plaintiff or added as a defendant but this does not effect the granting of interlocutory relief on an application by a proprietor of an exclusive licensee alone.

(5) A person who is added as a defendant as mentioned in subsection (4) shall be made liable for any costs in the action unless he takes part in the proceedings.

(6) 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 the Court shall in assessing damages take into account—

(a) the terms of the licence; and

(b) any pecuniary remedy already awarded or available to either of them in respect of the infringement.

(7) No account of profits shall be directed if an award of damages has been made, or an account of profits has been directed, in favour of either of them in respect of the infringement.

(8) The Court shall if an account of profits is directed, apportion the profits between them as the Court considers just, subject to any agreement between them:

Provided that the provisions of this subsection apply whether or not the proprietor and the exclusive licensee are both parties to the action and if they are 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 proprietor of a registered trade mark shall notify any exclusive licensee who has a concurrent right of action before applying for an order under section 51 and the Court may on the application of the licensee make such order under that section as it thinks fit having regard to the terms of the licence.

(10) The provisions of subsections (4) to (7) have effect subject to any agreement to the contrary between the exclusive licensee and the proprietor.

Surrender, revocation and invalidity

Surrender of registered trade mark

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

(2) The Governor may make Regulations—

- (a) as to the manner and effect of a surrender; and
- (b) for protecting the interests of other persons having a right in the registered trade mark.

Revocation of registration

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

- (a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, the European Union, or any Convention Country to which the Turks and Caicos Islands is a party or in the Islands, by the proprietor or with his 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 five years, and there are no proper reasons for non use;
- (c) that, in consequence of the acts of inactivity of the proprietor, it has become the common name in the trade for a product or service for which it is registered;
- (d) that in consequence of the use made of it by the proprietor or with his 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 the use in the Islands includes affixing the trade mark to goods or to the packaging of goods in the Islands solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in those paragraphs is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) 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, he may at any stage of the proceedings refer the application to the Court.

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

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be 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 will be the date.

(7) No registration of a trade mark shall be revoked without giving the proprietor of the trade mark an opportunity to be heard.

Grounds for invalidity of registration

47. (1) The registration of a trade mark may be declared invalid on the ground that the trade mark was registered in breach of section 35 or any of the provisions referred to in that section but where the trade mark was registered in breach of subsection (1)(b), (c) or (d) of that section, it shall 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.

(2) 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 the conditions set out in subsection (1), (2) or (3) of section 37, obtain; or
- (b) that there is an earlier trade mark or other earlier right has consented to the registration.

(3) 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 shall be made to the Court; and
- (b) if in any other case the application is made to the Registrar, he may at any stage of the proceedings refer the application to the Court.

(4) In the case of bad faith in the registration of a trade mark, the Registrar may apply to the Court for a declaration of the invalidity of the registration.

(5) Where the grounds of invalidity exist in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards to those goods or services only.

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made:

Provided that this shall not effect transactions past and closed.

(7) No registration of a trade mark shall be declared invalid under this section without giving the proprietor of the trademark an opportunity to be heard.

Effect of acquiescence of earlier trade mark

48. (1) Where the proprietor of an earlier trade mark or other earlier right has acquiesced for a continuous period of five years in the use of a registered trade mark in the Islands, being aware of that use, there shall cease 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, notwithstanding that the earlier trade mark or right may no longer be invoked against his later mark.

Infringement proceedings

Action for infringement

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

(2) In an action for infringement all such relief by way of damages, injunctions, accounts or otherwise is available to him as is available in respect of the infringement of any other property right.

Order of erasure etc. of offending sign

50. (1) Where a person is found to have infringed a registered trade mark, the Court may make an order requiring him—

- (a) to cause the offending sign to be erased, removed or obliterated from any infringing goods, material or articles in his possession, custody or control; or
- (b) if it is not reasonable, practicable for the offending sign to be erased, removed or obliterated, to secure the destruction of the infringing goods, material or articles in question.

Order for delivery up of infringing goods, material or articles

51. (1) The proprietor of a registered trade mark may apply to the Court for an order for the delivery up to him, or such other person as the Court may direct,

of any material or infringing goods, articles which a person has in his possession, custody or control in the course of a business.

(2) An application shall not be made after the end of the period specified in section 53 and no order shall be made unless the Court also makes, or it appears to the Court that there are grounds for making, an order under section 54.

(3) A person to whom any infringing goods, material or articles are delivered up in pursuance of an order under this section shall, if an order under section 54 is not made, retain them pending the making of such order, or the decision not to make an order under that section.

(4) Nothing in this section affects any other power of the Court.

Meaning of “infringing goods”, “infringing material” and “infringing articles”

52. (1) In this Ordinance the expression “infringing goods”, “infringing material” and “infringing articles shall be construed as provided in subsections (2), (4) and (5).

(2) Goods are “infringing goods” in relation to a trade mark, if they or their packaging bear a sign identical 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 the Islands and the application of the sign in the Islands 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) Nothing in subsection (2) shall be construed as affecting the importation of goods which may lawfully be imported into the Islands by virtue of any Ordinance or law.

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

- (a) it is used for labeling 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.

(5) “Infringing articles”, in relation to a registered trade mark, means articles—

- (a) which are specifically designed or adapted for making copies of a sign identical or similar to that mark; and

- (b) which a person has in his 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.

Period after which remedy for delivery up not available

53. (1) An application for an order under section 51 may not be made after the end of the period of six years from—

- (a) in the case of infringing goods, the date on which the trade mark was applied to the goods or their packaging;
- (b) in the case of infringing material, the date on which the trade mark was applied to the material; or
- (c) in the case of infringing articles, the date on which they were made, except as mentioned in the next following provisions.

(2) If during the whole or part of that period the proprietor of the registered trade mark—

- (a) is under a disability; or
- (b) is prevented by fraud or concealment from discovering the facts entitling him to apply for an order,

an application may be made at any time before the end of the period of six years from the date on which he ceased to be under such disability or, as the case may be, could with reasonable diligence have discovered those facts.

Order as to disposal of infringing goods, material or articles

54. (1) Where infringing goods, material or articles have been delivered up in pursuance of an order under section 51, 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 shall consider whether other remedies available in an action for infringement of the registered trade mark would be adequate to compensate the proprietor and any licensee and protect their interests.

(3) Orders 10 and 11 of the Rules of the Supreme Court 2000, as the case may be, apply for service of notice on persons having an interest in the goods, material or articles, and any such person is entitled—

- (a) to appear in proceedings for an order under this section, whether or not he was served with notice; and
- (b) to appeal against any order made, whether or not he appeared and an order shall 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.

(4) Where there is more than one person interested in the goods, material or articles, the Court shall make such order as it thinks just.

(5) 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.

(6) References in this section to a person having an interest in goods, material or articles include any person in whose favour an order would or may be made under this section.

Remedy for groundless threats of infringement proceedings

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

- (a) the application of the mark to goods or their packaging;
- (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 person aggrieved 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 he has sustained by the threats,

and the plaintiff is entitled to such relief 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.

(3) If that is shown by the defendant, the plaintiff is nevertheless entitled to relief if he shows that the registration of the trade mark is invalid or liable to be revoked in a relevant respect.

(4) 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.

Priority

Claim to priority of Convention application

56. (1) A person who has duly filed an application for protection of a trade mark in the United Kingdom or a Convention Country to which the Turks and Caicos Islands is a party, or his successor in title, has a right to priority, for the purposes of registering the same trade mark under this Ordinance for some or all

of the same goods or services, for a period of twelve months from the date of filing of the first such application.

(2) If the application for registration under this Ordinance within that twelve month period—

- (a) the relevant date for the purposes of establishing which rights take precedence shall be the date of filing of the first United Kingdom or Convention application; and
- (b) the registrability of the trade mark shall not be affected by any use of the mark in the Islands in the period between that date and the date of the application under this Ordinance.

(3) Any filing which in the United Kingdom or Convention Country which the Turks and Caicos Islands is party to is equivalent to a regular national filing, under its domestic legislation or an international agreement, shall be treated as giving rise to the right of priority.

(4) 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 first United Kingdom or Convention application, filed in the United Kingdom or and Convention Country to which the Turks and Caicos Islands is party shall be considered the first United Kingdom or Convention 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) Provision may be made by Rules as to the manner of claiming a right to priority on the basis of a United Kingdom and Convention application.

(7) A right of priority arising as a result of a United Kingdom or Convention application 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 shall be construed accordingly.

Collective marks

Collective marks

57. The provisions of this Ordinance apply to collective marks subject to the provisions of Schedule 1.

Certification marks

Certification marks

58. The provisions of this Ordinance apply to certification marks subject to the provisions of Schedule 2.

PART IV

INTERNATIONAL MATTERS— THE EUROPEAN UNION REGULATIONS
AND OTHER INTERNATIONAL ARRANGEMENTS

Application of treaties

59. The provisions of any international treaty in respect to trade marks, collective marks and certification marks to which the Turks and Caicos Islands is party to shall apply to matters dealt with by this Ordinance and, in case of conflict with provisions of this Ordinance, the provisions of the treaty shall prevail.

The U. K. Act 1994 and the European Union Regulations

60. (1) The United Kingdom Act with extension to other countries through the international registrations under the Madrid Agreement Protocol: Sections 53 and 54 and the European Union Regulations EC 40/94 as revised or amended from time to time, the Regulations made thereunder, and the Administrative Instructions made under those Regulations shall be given full effect.

(2) Where reference is made in this Ordinance to the United Kingdom Act or the European Union Regulations such reference shall include the Regulations and Administrative Instructions referred to in subsection (1).

(3) Where the provisions of this Ordinance and the Regulations made thereunder conflict with those of the United Kingdom Act or European Union Regulations, the provisions of the United Kingdom Act and the European Union Regulations shall prevail.

Protection of well known trade mark

61. (1) References in this Ordinance to a trade mark which is entitled to protection under the United Kingdom Act and the European Union Regulations as a well known trade mark are to a mark which is well known in the Islands as being the mark of a person who—

- (a) is a national of the United Kingdom or the European Union, or
- (b) is domiciled in or has a real and effective industrial or commercial establishment in, the United Kingdom or the European Union, whether or not that person carries on business, or has any goodwill, in the Islands, and references to the proprietor of such a mark shall be construed accordingly.

(2) The proprietor of a trade mark which is entitled to protection under the United Kingdom Act or the European Union Regulations as a well known trade mark is entitled to restrain by injunction the use in the Turks and Caicos Islands of a trade mark which, or the essential part of which, is identical or similar goods or services, where the use is likely to cause confusion, but this right is subject to section 48.

(3) Nothing in subsection (2) affects the continuation of any *bona fide* use of a trade mark begun before the commencement of this section.

National emblems etc. of Convention Countries

62. (1) A trade mark which consists of or contains the flag of a Convention Country to which the Islands is a party to shall 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 information.

(2) A trade mark which consists of or contains the armorial bearings or any State emblem of a Convention Country to which the Turks and Caicos Islands is party to shall 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 to which the Turks and Caicos Islands is a party to and indicating control and warranty shall not, where the sign or hallmark is protected under the Convention, 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, notwithstanding that 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 of the mark in the Islands without their authorisation.

Emblems etc. of certain International Organisations

63. (1) This section applies to—

- (a) the armorial bearings, flags or other emblems; and
- (b) the abbreviations and names of intergovernmental organisations of which one or more Convention Countries are members to which the Islands is a party.

(2) A trade mark which consists of or contains any such emblem, abbreviation or name which is protected under any Convention to which the Islands is a party shall 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 use 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 of the mark in the Islands 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 the day when the relevant provisions of the United Kingdom Act or the European Union Regulations entered into force in relation to the Islands.

(6) For the purpose of this Ordinance the Registrar shall 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
- (b) the emblems, abbreviations and names of international organisations, which are for the time being protected under any treaty, convention or the United Kingdom Act to which the Islands is a party by virtue of notification.

Acts of agent or representative

64. (1) The following provisions 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 a proprietor of the mark in the United Kingdom or a Convention Country which the Islands is a party to.

(2) If the proprietor opposes the application, registration shall 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 its name as the proprietor of the registered trade mark.

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

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

(6) An application under subsection (3)(a) or (b) shall be made within three years of the proprietor becoming aware of the registration, and no injunction shall be granted under subsection (4) in respect of a use in which the proprietor has acquiesced for a continuous period of three years or more.

Judicial notice of certain treaties

65. (1) Judicial notice shall be taken of any treaties or conventions relating to trade marks, collective marks and certification marks to which the Islands may become a party, and of any bulletin, journal or *Gazette* published under such treaty or convention.

(2) Any document referred to in such bulletin, journal or *Gazette* shall be admissible as evidence of any instrument or other act thereby communicated, or of any institution established by or having functions under any convention or treaty referred to in subsection (1).

PART V

LEGAL AND GENERAL

Legal proceedings

Registration to be *prima facie* evidence of validity

66. In all legal proceedings relating to a registered trade mark (including proceedings for rectification of the Register) the registration of a person as proprietor of a trade mark shall be *prima facie* evidence of the validity of the original registration and of any subsequent assignment or other transmission of it.

Certification of validity of contested registration

67. (1) If in the proceedings before the Court the validity of the registration of a trade mark is contested and it is found by the Court that the trade mark is validly registered, the Court may give a certificate to that effect.

(2) If the Court gives such a certificate and in subsequent proceedings—

- (a) the validity of the registration is again questioned; and
- (b) the proprietor obtains a final order or judgment in his favour, he is entitled to his costs as between attorney and client unless the Court directs otherwise, but this subsection does not extend to the costs of an appeal in any such proceedings.

Registrar's appearance in proceedings involving the Register

68. (1) In proceedings before the Court involving an application for—

- (a) the revocation of the registration of a trade mark; or
- (b) a declaration of the invalidity of a trademark,

the Registrar is entitled to appear and be heard if so directed by the Court.

(2) Unless otherwise directed by the Court the Registrar may instead of appearing submit to the Court a statement in writing signed by him giving particulars of—

- (a) any proceedings before him in relation to the matter in issue;
- (b) the grounds of any decision given by him affecting it;
- (c) the practice of his office in like cases; or
- (d) such matters relevant to the issues and within his knowledge as Registrar as he thinks fit; and the statement shall be deemed to form part of the evidence in the proceedings.

(3) Any thing which the Registrar is or may be authorised or required to do under this section may be done on his behalf by a duly authorised officer of the staff of his office.

Appeals from decisions of the Registrar

69. (1) An appeal lies to the Court from any decision of the Registrar under this Ordinance.

(2) For the purposes of this section “decision of the Registrar” includes any act of the Registrar in exercise of a discretion vested in him by or under this Ordinance.

Power of Governor to make Regulations

70. (1) The Governor shall make Regulations—

- (a) for the purpose of any provision of this Ordinance authorising the making of regulations with respect to any matter; and
- (b) for prescribing anything authorised or required by any provision of this Ordinance to be prescribed, and generally for regulating practice and procedure under this Ordinance.

(2) Regulations may, in particular, be made as to—

- (a) the manner of filing of applications and other documents;
- (b) requiring and regulating the translation of documents and the filing and authentication of any translation;
- (c) as to the service of documents;
- (d) authorising the rectification of irregularities of procedure;
- (e) prescribing time limits for anything required to be done in connection with any proceeding under this Ordinance;
- (f) providing for the extension of any time limit so prescribed, or specified by the Registrar, whether or not it has already expired;

- (g) the payment of fees, in respect of applications and registrations of trade marks;
- (h) the payment of a single fee in respect of two or more matters;
- (i) prescribed forms to be used for any of the purposes of this Ordinance;
- (j) provide for the classification of goods and services for the purposes of registration of trade marks;
- (k) provide generally for the regulation of the business of the office of the Registrar;
- (l) the circumstances (if any) in which a fee may be repaid or remitted; and
- (m) any other matters or proceedings under this Ordinance.

Days and hours of business

71. The Registrar's office shall be open to the public on Monday to Thursday inclusive in each week between the hours of 8.00 a.m. and 4.30 p.m. and Fridays from 8.00 a.m. to 4.00 p.m. for all classes of business, except that the office shall be closed to the public (except by special appointment) on public holidays and on such other days and during such periods as may from time to time be notified by a notice posted in some conspicuous place at the Registrar's office.

Agents

72. Every applicant for the registration of a trade mark, certification mark or collective mark in the Register whose ordinary residence or principal place of business is outside the Islands shall be represented by—

- (a) an attorney who holds a current practising certificate issued under section 10 of the Legal Profession Ordinance and holds a current business licence issued under the Business Licensing Ordinance; or
- (b) an accounting firm or corporate service providers who holds a corporate licence issued under the Company Management (Licensing) Ordinance,

and a current work permit if not a Belonger or a holder of a Permanent Residence Certificate issued under the Immigration Ordinance.

Provision restricting importation of infringing goods

73. (1) The proprietor of a registered trade mark, or a licensee, may give notice in writing to the Collector of Customs—

- (a) that he is the proprietor or, as the case may be, a licensee of the registered trade mark;
- (b) that at a time and place specified in the notice, goods which are, in relation to that registered trade mark, infringing goods, infringing

material or infringing articles are expected to arrive in the Islands;
and

(c) that he requests the Collector of Customs to treat the goods as prohibited goods.

(2) When a notice is in force under this section, the importation of the goods to which the notice relates, otherwise than by a person for his private and domestic use, is prohibited, but a person is not by reason of the prohibition liable to any penalty other than forfeiture of goods.

(3) The proprietor of a registered trade mark or a licensee who gives notice to the Collector of Customs pursuant to subsection (1) shall comply with such conditions with respect to—

- (a) the form of notice;
- (b) the furnishing of evidence;
- (c) the payment of fees in respect of the notice;
- (d) the giving of security in respect of any liability or expense which the Collector of Customs may incur in consequence of the notice by reason of the detention of any article or anything done to a detained article;
- (e) the indemnification of the Collector of Customs against any liability or expenses, whether security has been given or not; and
- (f) any other incidental or supplementary matters, as may be prescribed, and different provisions may be prescribed for different classes or cases.

(4) Notwithstanding anything in the Customs Ordinance, a person shall not be liable to any penalty under that Ordinance (other than the forfeiture of the goods) by reason only that any goods are treated as prohibited goods by virtue of this section.

(5) In this section “Collector of Customs” has the same meaning as in the Customs Ordinance.

Unauthorised use of trade mark, etc. in relation to goods

74. (1) A person commits an offence who with a view to gain for himself or another person, or with intent to cause a loss to another, and without the consent of the proprietor—

- (a) applies to goods or their packing a sign identical to, or likely to be mistaken for, a registered trade mark;
- (b) sells or lets for hire, offers or exposes for sale or hire or distributes goods which bear, or the packing of which bears, such a sign; or
- (c) has in his possession, custody or control in the course of a business any such goods with a view to the doing of anything, by himself or another, which would be an offence under paragraph (b).

(2) A person commits an offence who with a view to gain for himself or another, or with intent to cause loss to another, and without the consent of the proprietor—

- (a) applies a sign identical to, or likely to be mistaken for, a registered trade mark to material intended to be used—
 - (i) for labelling or packing goods;
 - (ii) as a business paper in relation to goods; or
 - (iii) for advertising goods;
- (b) uses in the course of a business material bearing such a sign for labelling or packing goods, as a business paper in relation to goods, or advertising goods; or
- (c) has in his possession, custody or control in the course of a business any such material with a view to the doing of anything by himself or another, which would be an offence under paragraph (b).

(3) A person commits an offence who with a view to gain for himself or another or with intent to cause loss to another, and without the consent of the proprietor—

- (a) makes any article specifically designed or adapted for making copies of a sign identical to, or likely to be mistaken for, a registered trade mark; or
- (b) has such an article in his possession, custody or control in the course of a business, knowing or having reason to believe that it has been, or is to be used to produce goods, material for labelling or packing goods, as a business paper in relation to goods, or for advertising goods.

(4) A person does not commit an offence under this section unless—

- (a) the goods are goods in respect of which the trade mark is registered; or
- (b) the trademark has a reputation in the Islands and the use of the signs takes or would take unfair advantage of, or is or would be detrimental to, the distinctive character or the repute of the trade mark.

(5) It is a defence for a person charged with an offence under this section to show that he believed on reasonable grounds that the use of the sign in the manner which it was used, or was to be used, was not an infringement of the registered trade mark.

(6) A person who commits an offence under this section is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of three years or both such fine or imprisonment.

Falsification of Register etc.

75. (1) It is an offence for a person to make, or cause to be made, a false entry in the Register of trade marks, knowing or having reason to believe that it is false.

(2) It is an offence for a person—

(a) to make or cause to be made anything falsely purporting to be copy of an extract of an entry in the Register; or

(b) to produce or tender or cause to be produced or tendered in evidence any such thing, knowing or having reason to believe that it is false.

(3) A person who commits an offence under this section shall be liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of three years, or to both such fine and imprisonment.

Falsely representing trade mark as registered

76. (1) It is an offence for a person—

(a) falsely to represent that a trade mark is a registered trade mark; or

(b) to make a false representation as to the goods or services for which a trade mark is registered.

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

(a) of the word “registered”; or

(b) of any word or symbol importing a reference (express or implied) to registration, shall be deemed to be a representation as to registration under this Ordinance unless it is shown that the reference is to registration elsewhere than in the Islands and that the trade mark is in fact so registered for the goods or services in question.

(3) A person who commits an offence under this section shall be liable on summary conviction to a fine of \$5,000 or to a term of imprisonment of two years, or to both such fine and imprisonment.

Offences by body corporate and partnerships

77. (1) Where an offence is committed under this Ordinance by a body corporate, every person who at the material time was a director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in such capacity shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or connivance, or that he tried to prevent the commission of the offence.

(2) Subsection (1) shall *mutatis mutandis*, apply in respect of partners in a partnership under this Ordinance.

(3) A fine imposed on a partnership on its conviction under this Ordinance shall be paid out of the partnership assets.

Powers of police officers

78. (1) Any police officer may—

- (a) subject to the provisions of this Ordinance enter and search any premises or place, for goods which, or the packing of which, bears a sign identical to or likely to be mistaken for a registered trade mark or for material bearing such a sign and intended to be used for labelling or packing goods, as a business paper in relation to goods, or for articles specifically designed or adapted for making copies of such sign;
- (b) stop, board and search any vessel (other than a ship of war) or any aircraft (other than a military aircraft) for goods referred to in paragraph (a);
- (c) stop and search any vehicle, in which he reasonably suspects that there are the goods referred to in paragraph (a);
- (d) seize, remove or detain any goods referred to in paragraph (a) found by him pursuant to this subsection.

(2) Any police officer may—

- (a) break open any outer or inner door of any place which he is empowered or authorised by this Ordinance to enter and search;
- (b) forcibly board any vessel, aircraft or vehicle which he is empowered by this Ordinance to stop, board and search;
- (c) remove by force any person or thing obstructing him in the exercise of any power conferred on him by this Ordinance;
- (d) detain any person found in any place which he is empowered or authorized by this Ordinance to search, until such place has been searched;
- (e) detain any vessel or aircraft which he is empowered by this Ordinance to stop, board and search, and prevent any person from approaching or boarding such vessel or aircraft until it has been searched;
- (f) detain any vehicle which he is empowered by this Ordinance to stop and search until it has been searched.

Restrictions on entry and search of domestic premises

79. (1) No domestic premises shall be entered and searched by a Police officer unless a Magistrate or Justice of the Peace has issued a warrant under subsection (2).

(2) A Magistrate or Justice of the Peace may, if he is satisfied by information on oath that there are reasonable grounds for suspecting that there is in any domestic premises, any article which may be seized, removed or detained

under any provision of this Ordinance, issue a warrant authorising a police officer to enter and search the premises.

(3) A police officer authorised under subsection (2) to enter and search any premises may call upon any police officer to assist him in entering and searching the premises.

(4) In this section “domestic premises” means any premises or any part thereof, used exclusively or mainly as a dwelling house.

Obstruction of police officers

80. (1) Without prejudice to any other written law, any person who—

- (a) wilfully obstructs a police officer in the exercise of his powers or the performance of his duties under this Ordinance;
- (b) wilfully fails to comply with any requirements properly made to him by any such police officer; or
- (c) without reasonable excuse, fails to give such police officer any other assistance which he may reasonably require to be given for the purpose of exercising his powers or performing his duties under this Ordinance,

commits an offence and is liable on summary conviction to a fine of \$1,000 or a term of imprisonment of twelve months.

(2) A person who, when required to give information to a police officer in the exercise of his duties under this Ordinance, knowingly gives false or misleading information to any such police officer, commits an offence and is liable on summary conviction to a fine of \$2,000 or to a term of imprisonment of two years.

(3) Nothing in this section shall be construed as requiring any person to give any information which may incriminate him.

PART VI

TRANSITION

Transitional

81. (1) All trade marks registered in the Turks and Caicos Islands pursuant to the repealed Trade Marks Ordinance¹ and any rules made thereunder shall, subject to subsection (2), be deemed to have been registered under this Ordinance.

¹ Ordinance 2 of 1978, Cap 132, 1998 Revised Edition.

(2) Trade marks registered pursuant to the repealed Trade Marks Ordinance, shall remain in force for the unexpired portion of the period of protection provided under that Ordinance.

SCHEDULE 1

(Section 2)

COLLECTIVE MARKS

General

Application

1. The provisions of this Ordinance apply to collective marks subject to the following provisions.

Signs of which a collective mark may consist

2. In relation to a collective mark, the reference in section 2(1) to distinguishing goods or services of one undertaking from those of other undertakings shall be construed as reference to distinguishing goods or services of members of the association which is the proprietor of the mark from those of other undertakings.

Indication of geographical origin

3. (1) Notwithstanding section 35(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) The proprietor of such mark referred in subsection (1) 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 shall 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 require that a mark in respect of which application is made for registration to include some indication that it is a collective mark and, notwithstanding section 16, an application may be amended so as to comply with any such requirement.

Rules governing use of the collective mark

5. (1) An applicant for registration of a collective mark shall file with the Registrar, rules governing the use of the mark.

(2) The regulations shall specify the persons authorised to use the mark, the conditions of membership of the association and, where they exist, the conditions of the use of the mark, including any sanctions against misuse.

(3) Further requirement with which the rules have to comply may be imposed by orders.

Approval of Rules by Registrar

6. (1) A collective mark shall not be registered unless the rules governing the use of the mark—

- (a) comply with paragraph 5(2) and any further requirements imposed by orders; 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 shall file the Rules with the Registrar and may pay the prescribed fee and if he does not do so, the application shall be deemed to be withdrawn.

(3) The Registrar shall consider whether the requirements mentioned in subparagraph (1) are met.

(4) If it appears to the Registrar that those requirements are not met, he shall inform the applicant and give him an opportunity, within such period as the Registrar may specify, to make representations or to file amended Rules.

(5) If the applicant fails to satisfy the Registrar that those requirements are met, or file Rules amended so as to meet them, or fails to respond before the end of the specified period, the Registrar shall refuse the application.

(6) If it appears to the Registrar that those requirements, and other requirements for registration, are met he shall accept the application and shall proceed in accordance with section 15 (publication, opposition proceedings and observations).

(7) The Rules shall be published and notice of opposition may be given, and observations may be made, relating to the matters mentioned in this paragraph.

Rules to be open to inspection

7. The Rules governing the use of a registered collective mark shall be open to public inspection in the same way as the Register.

Amendment of Rules

8. (1) An amendment of the Rules governing the use of a registered collective mark is not effective unless and until the amended Rules are filed with the Registrar and accepted by him.

(2) Before accepting any amended Rules, the Registrar may in any case where it appears to him expedient to do so cause them to be published.

(3) If he does so, opposition may be given, and observations may be made, relating to the matters mentioned in paragraph 6.

Infringement: rights of authorised users

9. The following provisions apply in relation to an unauthorised user of a registered collective mark as in relation to a licence of a trade mark—

- (a) section 25(5) (definition of infringement; unauthorised application of mark to certain material);

- (b) section 54(2) (order as to disposal of infringing goods, material or articles; adequacy of other remedies);
- (c) section 74 (prohibition of importation of infringing goods, material or articles).

Rights of licences in case of infringement

10. (1) The following provisions (which correspond to the provisions of section 43) (general provisions as to the rights of licenses in case of infringement) have effect as regards the rights of an unauthorised user in relation to infringement of a registered collective mark.

(2) An authorised user is entitled, subject to any agreement to the contrary between him and the proprietor of the mark to call on the proprietor to take infringement proceedings in respect of any matter which affects his interest.

(3) If the proprietor of the mark—

- (a) refuses to do so; or
- (b) fails to do so within two months after being called upon,

the authorised user may bring the proceedings in his own name as if he were the proprietor.

(4) Where the infringement proceedings are brought by virtue of this paragraph, the authorised user may not without the leave of the Court proceed with the action unless the proprietor of the mark is either joined as a plaintiff or added as a defendant but this does not affect the granting of interlocutory relief on an application by an authorised user alone.

(5) A proprietor of a registered collective mark who is added as a defendant as mentioned in subparagraph (4) shall not be made liable for any costs in the action unless he takes part in the proceedings.

(6) Infringement proceedings brought by the proprietor of a registered collective mark, any loss suffered or likely to be suffered by authorised users, shall be taken into account, and the Court may give such directions as it thinks fit as to the extent to which the plaintiff is to hold the proceeds of any pecuniary remedy on behalf of such users.

Grounds for revocation of resignation

11. Apart from the grounds of revocation provided for in section 46, 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 5(1);
- (b) that the proprietor failed to observe, or to secure the observance of, the rules governing the use of the mark;
- (c) that an amendment of the rules has been made so that the rules—
 - (i) no longer comply with paragraph 5(2) and any further conditions imposed by orders; or

(ii) are contrary to public policy or to accepted principles of morality.

Grounds for invalidity of registration

12. Apart from the grounds of invalidity provided for in section 47, 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).

Hearing

13. No registered collective mark may be revoked or declared invalid without hearing the proprietor of the mark.

SCHEDULE 2

(Section 2)

CERTIFICATION MARKS

General

Application

1. The provisions of this Ordinance apply to certification marks subject to the following provisions.

Signs of which a certification mark may consist

2. In relation to a certification mark, the reference in section 2(1) to distinguishing goods or services of one undertaking from those of other undertakings shall be construed as reference to distinguishing goods or services which are certified from those which are not.

Indication of geographical origin

3. (1) Notwithstanding section 35(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 mark referred in subsection (1) 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 shall not be registered if the proprietor of the mark carries on a business involving the supply of goods or services of the kind certified.

Mark not to be misleading to character or significance

5. (1) A certification mark shall 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

(2) The Registrar may accordingly require that a mark in respect of which application is made for registration to include some indication that it is a certification mark and, notwithstanding section 16, an application may be amended so as to comply with any such requirement.

Registration governing use of certification mark

6. (1) An applicant for registration of a certification mark, shall file with the Registrar rules governing the use of the mark.

(2) The rules 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 fee (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 rules have to comply may be imposed by orders.

Approval of Rules by Registrar

7. (1) A certification mark shall not be registered unless—

(a) the rules governing the use of the mark—

- (i) comply with paragraph 6(2) and any further requirements imposed by orders; and
- (ii) are not contrary to public policy or to accepted principles of morality.

(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 shall file the rules with the Registrar and may pay the prescribed fee, and if he does not do so, the application shall be deemed to be withdrawn.

(3) The Registrar shall consider whether the requirements mentioned in subparagraph (1) are met.

(4) If it appears to the Registrar that those requirements are not met, he shall inform the applicant and give him an opportunity, within such period as the Registrar may specify, to make representations or to file amended rules.

(5) If the applicant fails to satisfy the Registrar that those requirements are met, or file amended rules so as to meet them, or fails to respond before the end of the specified period, the Registrar shall refuse the application.

(6) If it appears to the Registrar that those requirements, and other requirements for registration are met, he shall accept the application and shall proceed in accordance with section 15 (publication, opposition proceedings and observations).

(7) The rules shall be published and notice of opposition may be given, and observations may be made, relating to the matters mentioned in this paragraph, in addition to any other grounds on which the application may be opposed or observations made.

Rules to be open to inspection

8. The rules governing the use of a registered certification mark shall be open to public inspection in the same way as the Register.

Amendment of Rules

9. (1) An amendment of the Rules governing the use of a registered certification mark is not effective unless and until the amended rules are filed with the Registrar and accepted by him.

(2) Before accepting any amended rules the Registrar may in any case where it appears to him expedient to do so cause them to be published.

(3) If he does so, of opposition may be given, and observations may be made, relating to the matters mentioned in paragraph 7(1).

Consent to assignment of registered certification mark

10. The assignment or other transmission of a registered certification mark is not effective without the consent of the Registrar.

Infringement: rights of authorised users

11. The following provisions apply in relation to an unauthorised user of a registered certification mark as in relation to a licence of a trade mark—

- (a) section 25(5) (definition of infringement; unauthorised application of mark to certain material;)
- (b) section 54(2) (order as to disposal of infringing goods, material or articles; adequacy of other remedies);
- (c) section 74 (prohibition of importation of infringing goods, material or articles: adequacy of other remedies).

12. Infringement proceedings brought by the proprietor of a registered certification mark any loss suffered or likely to be suffered by authorised users shall be taken into account, and the Court may give such directions as it thinks fit as to the extent to which the plaintiff is to hold the proceeds of any pecuniary remedy on behalf of such users.

Grounds for revocation of resignation

13. Apart from the grounds of revocation provided for in section 46, 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 failed to observe, or to secure the observance of, the rules governing the use of the mark;
- (d) that an amendment of the rules has been made so that the rules—
 - (i) no longer comply with paragraph 6(2) and any further conditions imposed by orders; or
 - (ii) are contrary to public policy or to accepted principles of 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

14. Apart from the grounds of invalidity provided for in section 47, the registration of a ground that the mark was registered in breach of the provisions of paragraph 4, 5(1) or 6(3).

Hearing

15. No registered certification mark may be revoked or declared invalid without hearing the proprietor of the mark.

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TRADE MARKS RULES – SECTION 70*

(Legal Notices 3/1983, 17/1996, 31/2000, 17/2006, 18/2009 and 21/2011)

Commencement

[11 February 1983]

Short title

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

Introductory

Interpretation

2. (1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

“agent” means an agent duly authorised in accordance with the law;

“associated trade mark” and “defensive trade mark” have the same meanings as those expressions have for the purposes of the Ordinance;

“Ordinance” means the Trade Marks Ordinance, 1978;

“Registrar” means the person appointed as such under the provisions of the Ordinance;

“Register” means the Register of Trade Marks;

“Schedule” means one of the Schedules appended to these Rules and numbered 1, 2 and 3 respectively;

“section” means a section of the Ordinance, a subsection being indicated by a number enclosed in brackets immediately following the number of the section;

“specification” means the designation of goods in respect of which a trade mark, or a registered user of a trade mark, is registered or proposed to be registered;

“standard trade mark” means a trade mark capable of registration under section 48(1) of the Ordinance.

(2) The Interpretation Ordinance shall apply to the interpretation of these Rules as it applies to the interpretation of an Ordinance in force in the Islands.

Fees

3. The fees to be paid in respect of any matters arising under the Ordinance shall be those specified in Schedule 1 and in any case where a form specified in that Schedule as the corresponding form in relation to any matter is required to be used, that form shall be accompanied by the fee specified in respect of that matter.

* These Rules are enabled under the Trade Marks Ordinance (No. 2 of 1978) Cap. 132, 1998 Revised Edition, (*now repealed*) but are continued in force under section 70 of the Ordinance.

Forms

4. The forms mentioned in these Rules are those contained in Schedule 2 modified as necessary to enable them to be used accompanied by the appropriate fee (if any), and such forms shall be used in all cases in which they are applicable and may be modified as directed by the Registrar to meet other cases.

Classification of goods

5. For the purpose of all trade mark registration made under these Rules, and of registration of registered users under such registration, goods and services are classified in the manner appearing in Schedule 3.

(Amended by L.N. 31/2000)

General Provisions

Paper to be used

6. Subject to any other directions that may be given by the Registrar, all applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Ordinance or these Rules to be made, left or sent, at or to the office of the Registrar, shall be upon durable paper and, except in the case of declarations and affidavits, written or printed upon one side only, shall be of a size of approximately 13 inches by 8 inches, and shall have on the left-hand side thereof a margin of not less than one inch and a half in width.

Signature of documents

7. (1) A document purporting to be signed for or on behalf of a partnership shall contain the name of all the partners in full and shall be signed by all the partners or by any qualified partner stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorised to sign the document.

(2) A document purporting to be signed by a company shall be signed by a director or by the secretary or other principal officer of the body corporate or by any other person who satisfies the Registrar that he is authorised to sign the document.

(3) A document purporting to be signed for or on behalf of an association of persons may be signed by any person who appears to the Registrar to be duly qualified.

Delivery of documents etc

8. All applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Ordinance or these Rules to be made, left or sent, at or to the office of the Registrar or any person may be sent through the post by a prepaid or official-paid letter, any application or any document so sent shall be deemed to have been left or sent at the time when the letter containing the same would be delivered in the ordinary course of post. For the purposes of this rule the expression "delivered in the ordinary course of post" shall in reference to any application or document sent to the office of the Registrar by any other person resident or carrying on business in the Islands mean "placed, by the General Post Office in Cockburn Town, Grand Turk, in a box allocated to the Registrar or such other person, or otherwise made

available for collection from the General Post Office". In proving sending, it shall be sufficient to prove that the letter was properly addressed and put in the post.

Address

9. Where any person is by the Ordinance or these Rules bound to furnish the Registrar with an address, such address shall be sufficient in all respects to enable any document or notice delivered or sent to that address to reach that person.

Address for service

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

(2) Any registered proprietor or registered user of a trade mark, or any person intending to be registered as such, may, if he so desires, give upon Form TM 35 an address for service for entry in the Register, and such address may be entered by the Registrar.

(3) All applications on Form TM 35 under this rule shall be signed by the applicant for registration or the registered proprietor or registered user, as the case may be, or by an agent expressly authorised by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

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

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

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

Agents

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

(2) Any such applicant, person making request or giving notice, proprietor, or registered user may appoint an agent to act for him in any proceeding or matter before or affecting the Registrar under the Ordinance or these Rules by signing and sending to the Registrar an authority to that effect in the Form TM 1, or in such other written form as

the Registrar may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing him, all communications directed to be made to such a person in respect of the proceedings or matter may be addressed to such agent, and all attendance before the Registrar relating thereto may be made by or through such agent. In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(3) The Registrar shall not be bound to recognise as such agent any person who has been proved to him to have been guilty of conduct discreditable to a trade mark agent, or who has been convicted criminally, or who has been prohibited from practising as a solicitor, barrister, attorney at law, trade mark agent or patent agent, or who for reasons of discreditable conduct has been struck off any register required by law to be maintained in respect of such persons, or who is an undischarged bankrupt.

Registrable Trade Marks

Unacceptable applications

12. (1) The Registrar may refuse to accept any application for the registration of a mark upon which any of the following appear—

- (a) the words “patent”, “registered”, “registered design”, “copyright”, “To counterfeit this is a forgery”, or words to like effect;
- (b) representations of Her Majesty or any member of the Royal Family, or any colourable imitations thereof;
- (c) the words “Red Cross” or “Geneva Cross”, and representations of the Geneva and other crosses in red, or of the Swiss Federal Cross in white on a red ground or silver on a red ground, or such representations in a similar colour or colours;
- (d) the words “Red Crescent” or “Red Lion and Sun” and representations of the red crescent moon, or red lion and sun, on a white or silver ground.

(2) Where there appears in a trade mark the registration of which is applied for a representation of a cross or crescent moon in any colour, not being one of those mentioned in the last two foregoing subparagraphs, the Registrar may require the applicant as a condition of acceptance to undertake not to use the cross or crescent moon device in red, or (in the case of the cross device only) in white on a red ground, or in any similar colour or colours.

Prohibited material

13. The following features may not appear on a trade mark the registration of which is applied for—

- (a) representations of the Royal or Imperial Arms, or the Arms of the Turks and Caicos Islands, crests, armorial bearings or insignia, or devices so nearly resembling any of the foregoing as to be likely to be mistaken for them;

- (b) representations of the Royal or Imperial Crowns, or of the Royal, Imperial or National flags or of the flag of the Turks and Caicos Islands or of any flag of any state or other division of any country or territory of any country;
- (c) any words, such as “Royal” or “Imperial”, or any letters or devices if used in such a manner as to be likely to lead persons to think that the applicant either has or recently has had Royal patronage or authorisation, whether or not such be the case.

Use of arms etc. belonging to a locality

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

Representation on trade marks of actual person

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

Limitation of registration

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

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

Preliminary advice

17. (1) Any person who proposes to apply for the registration of a trade mark in respect of any goods may apply to the Registrar on Form TM 31, or on Form TM 30 in a case where he is also making an application under rule 104, for advice as to whether the trade mark, of which duplicate representations shall accompany the Form, appears to the Registrar *prima facie* to be adapted to distinguish within the meaning of section 5 in relation to those goods, and shall apply separately in relation to goods comprised within different classes of goods in Schedule 3.

(2) If on application for the registration of a trade mark as to which the Registrar has given advice in the affirmative, made within three months after the advice is given, the Registrar after further investigation or consideration gives notice to the applicant of objection on the ground that the trade mark is not adapted to distinguish, the applicant shall be entitled, on giving written notice of withdrawal of the application within two

months of the Registrar's objection, to have repaid to him any fee paid on the filing of the application.

Procedure on Application for Registration

Application for registration of a trade mark

18. (1) An application to the Registrar for the registration of a trade mark shall be signed by the applicant or his agent. For a trade mark other than a standard or defensive trade mark the application shall be made on Form TM 2. For a standard or a defensive trade mark the application shall be made on Form TM 41 or Form TM 34 respectively. Each application shall be for registration in respect of goods in one class of Schedule 3 only. Any application pursuant to section 52(1) shall be accompanied by the certificate specified in that section.

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

(3) Every application for the registration of a trade mark shall be made, addressed and sent or delivered to the Registrar at his office in Grand Turk. On receipt of the application the Registrar shall furnish the applicant with an acknowledgment therefor.

(4) An application to the Registrar under section 8(6) to make a correction or amendment in respect of an application shall be made on Form 23.

Representation of mark

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

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

Additional representations

20. With all applications for the registration of a trade mark (other than a standard trade mark) there shall be sent four additional representations of the mark on Form TM 3. The representation of the mark on the application form and its duplicate (if any) and the additional representations shall correspond exactly. The additional representations shall in all cases be noted with all such particulars as may from time to time be required by the Registrar. Such particulars shall, if required, be signed by the applicant or his agent.

Representations shall be durable

21. All representations of marks must be of a durable nature, but the applicant may in case of need supply, in place of representations on Form TM 3, representations on sheets of durable paper of the size prescribed in rule 6 and noted as aforesaid.

Separate applications

22. Applications for the registration of the same mark in different classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods in more than one class, the registration in respect of the goods included in each separate class shall be deemed to be a separate registration for all the purposes of the Ordinance.

Representations to be satisfactory

23. The Registrar, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

Specimens of trade marks in exceptional cases

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

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

Series of trade marks

25. Where application is made for the registration of a series of trade marks under section 22, a representation of each trade mark of the series shall be included, all as aforesaid, in the application form, in the duplicate thereof (if any), and in each of the accompanying Forms TM 3.

Transliteration and translation

26. (1) Where a trade mark contains a word or words in characters other than Roman, there shall, unless the Registrar otherwise directs, be endorsed on the application form, and on each of the accompanying Forms TM 3, a sufficient transliteration and translation, to the satisfaction of the Registrar, of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant or his agent.

(2) Where a trade mark contains a word or words in a language other than English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and names, if he so requires, shall be endorsed and signed as aforesaid.

Procedure on Receipt of Application to Register a Trade Mark

Search

27. Upon receipt of an application for the registration of a trade mark in respect of any goods, the Registrar shall cause a search to be made amongst the registered marks and pending applications, for the purpose of ascertaining whether there are on record in respect of the same goods or description of goods any marks identical with the mark applied for, or so nearly resembling it as to render the mark applied for likely to deceive or cause confusion, and the Registrar may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

Acceptance, absolute or conditional

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

Registrar's objections

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

Registrar's conditions

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

Decision of Registrar

31. (1) The decision of the Registrar, at a hearing as in rule 29 or 30, or without a hearing if the applicant has duly communicated his considered objections or considered reply in writing, and has stated that he does not desire to be heard, shall be communicated to the applicant in writing, and if the applicant objects to such decision he may within one month by applying upon Form TM 4, require the Registrar to state in writing the grounds of and the materials used by him in arriving at his decision.

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

Disclaimer

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

Defensive Trade Marks

Application under section 33

33. An application for the registration of a defensive trade mark under section 33 shall be made, addressed and sent to the Registrar on Form TM 34, and shall be accompanied by a statement of case setting forth full particulars of the facts on which the applicant relies in support of his application, verified by a declaration made by the applicant or some other person approved for the purpose by the Registrar. The applicant may send with his declaration, or subsequently, such other evidence as he may desire to furnish, whether after request made by the Registrar or otherwise, and the Registrar shall consider the whole of the evidence before deciding on the application. In all other respects, and where they are appropriate and it is not otherwise stated, these Rules shall apply to such applications as they apply to applications for the registration of ordinary trade marks.

Standard Trade Marks

Application under section 48 (1)

34. An application for the registration of a standard trade mark under section 48(1) shall be made to the Registrar upon Form TM 41, and shall be accompanied by two duplicates of the application on copies of Form TM 41 and by six additional representations of the trade mark on Form TM 3.

Rules applicable— Authorisation to proceed

35. (1) These Rules shall apply to applications under section 48(1) as they apply to applications for the registration of ordinary trade marks except that the applicant shall not be deemed to have abandoned his application if in the circumstances of rule 29 or rule 30 he does not apply for a hearing or reply in writing.

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

Cases; draft regulations

36. The applicant for registration of a standard trade mark shall, if so required by the Registrar, send to the Registrar with his application or when otherwise so required by the Registrar a case setting out the grounds on which he relies in support of his application together with draft regulations for governing the use of the trade mark and Form TM 42, all being in duplicate. The Registrar may communicate to the applicant any observations he may have to make on the sufficiency of the case or the suitability of the draft regulations and the applicant may amend either of those documents.

Expunging or varying of entries

37. (1) Any registered proprietor of a standard trade mark or any aggrieved person may make application to the Registrar for an order expunging or varying an entry in the Register of or relating to a standard trade mark, or varying the relevant deposited regulations and such application shall include full particulars of the grounds on which the application is made.

(2) An application by an aggrieved person may be made on any of the following grounds—

- (a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the trade mark is registered, to certify those goods;
- (b) that the proprietor has failed to observe a provision of the deposited regulations to be observed on his part;
- (c) that it is no longer to the public advantage that the trade mark should be registered; or
- (d) that it is requisite for the public advantage that, if the trade mark remain registered, the regulations should be varied.

(3) Any application under this rule shall be made on Form TM 43.

(4) The Registrar may as he sees fit on such an application make an order rectifying the Register or the deposited regulations, or both, as the case may be.

Advertisement of Application

Applications to be advertised in *Gazette*

38. (1) An application for the registration of a trade mark required to be advertised by section 9 shall be advertised in the *Gazette* during such times and in such manner as the Registrar may direct. In the case of an application with which the Registrar proceeds only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or other applicant, the words “By Consent” shall appear in the advertisement.

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

Blocks etc, may be required

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

Blocks etc. where trade marks part of series

40. When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in section 22, the applicant may be required to furnish a wood block or electrotype (or more than one, if necessary) satisfactory to the Registrar of any or of each of the trade marks constituting the series; or the Registrar may, if he thinks fit, insert with the advertisement of the application a statement of the manner in which the several trade marks differ from one another.

Manner of advertisement under section 9 and under section 30

41. Advertisements under section 9 (7) and section 30 shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration.

Opposition to Registration

Notice of objection

42. (1) Notice, under section 10 (1), of opposition to the registration of the trade mark to which the advertisement relates, shall be given on Form TM 5.

(2) The notice shall include a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the mark resembles any mark or marks already on the Register, the numbers of such marks and the numbers of the *Gazette* in which they have been advertised shall be set out. The notice shall be accompanied by a duplicate which the Registrar shall forthwith send to the applicant.

Counter-statements

43. Within two months from the receipt of such duplicate the applicant shall send to the Registrar a counterstatement on Form TM 6 setting out the grounds on which he relies as supporting his application. The applicant shall also set out what facts, if any, alleged in the notice of opposition he admits. The counterstatement shall be accompanied by a duplicate.

Copy of counter-statement to be sent to opponent

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

Opponent leaving evidence etc

45. If an opponent leaves no evidence, he shall unless the Registrar otherwise directs be deemed to have abandoned his opposition but, if he does leave evidence then, within two months from the receipt of the copies of the declarations, the applicant shall leave with the Registrar such evidence by way of declaration as he may desire to adduce in support of his application, and he shall deliver to the opponent a copy of such evidence.

Reply by opponent

46. Within two months from the receipt by the opponent of the copies of the applicant's declarations, the opponent may leave with the Registrar evidence by declaration in reply, and shall deliver to the applicant a copy of such evidence. Such evidence shall be confined to matters strictly in reply.

Leave to file evidence

47. In any proceedings before the Registrar, he may at any time, if he thinks fit, give leave to either the applicant or the opponent to file any evidence upon such terms as to cost or otherwise as the Registrar may direct.

Copies of exhibits

48. Where there are exhibits to declarations filed in an opposition, a copy or impression of each exhibit shall be sent to the other party on his request and at his expense, or, if such copies or impressions cannot conveniently be furnished, the original shall be left with or sent to the office of the Registrar in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

Notice of hearing

49. Upon completion of the evidence the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. Such appointment shall be for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice. Within seven days from the receipt of such notice both parties shall file Form TM 7. A party who receives such notice and who does not, within seven days from the receipt thereof, so notify the Registrar on Form TM 7, may be treated as not desiring to be heard, and the Registrar may act accordingly.

Extension of time

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

Security for costs

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

Costs: matters to be taken into account

52. In the event of an opposition being uncontested by the applicant, the Registrar in deciding whether costs should be awarded to the opponent shall consider whether

proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was lodged.

Non-completion

Non-completion

53. Notice of non-completion given by the Registrar pursuant to section 14 shall be on Form TM 8 and shall be given to the applicant at his trade or business address. If the applicant has an agent a duplicate of such notice shall be sent to such agent.

Entry in the Register

Entry of trade mark

54. (1) As soon as may be after the expiration of one month from the date of the advertisement in the *Gazette* of any application for the registration of a trade mark, the Registrar shall, subject to any opposition and the determination thereof and subject to the provisions of section 12, and upon payment of the prescribed fee accompanied by Form TM 9, enter the trade mark in the Register. If the applicant has sent a wood block or electrotype in accordance with rule 39, he shall send with his fee a representation of the trade mark agreeing in all respects with the representation then appearing on the form of application, to be affixed by the Registrar to the certificate of registration as required by rule 57. The entry of a trade mark in the Register shall give the date of registration, the goods in respect of which it is registered, and all particulars specified in section 3, including both the trade and business address and the address for service (if an application on Form TM 35 for the entry thereof has been approved), particulars of the trade, business, profession, occupation or other description of the proprietor, particulars of any undertaking given by the proprietor entered on the form of application, particulars affecting the scope of the registration or the rights conferred by the registration, and such other particulars as are prescribed, or the Registrar may deem appropriate.

(2) In the case of such an application as the Registrar accepts, only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or another applicant for registration, the said entry in the Register shall state that it is "By Consent" and shall give the number of the previous registration or the application for registration.

Noting of Register: associated trade marks

55. Where a mark is registered as associated with any other mark or marks the Registrar shall note in the Register in connection with the first-mentioned mark, the numbers of the marks with which it is associated, and shall also note in the Register in connection with each of the associated marks the number of the first-mentioned mark as being a mark associated therewith.

Death of applicant

56. In case of the death of any applicant after making application for the registration of a trade mark and before the trade mark applied for has been entered in the Register, the Registrar, after the expiration of the prescribed period of advertisement and the

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

Certificate of registration

57. Upon the registration of a trade mark, the Registrar shall issue to the applicant a certificate in Form TM 10 and shall affix thereto a copy of the mark, which may be a representation thereof supplied by the applicant under rule 54(1).

Renewal

Renewal of registration— Authority of proprietor

58. At any time not more than three months before the expiration of the last registration of a trade mark, any person may send to or leave at the office of the Registrar a Form TM 11 together with the prescribed fee for the renewal of the mark. Such person shall endorse upon the form his name and address, and before taking any further step the Registrar may require such person to furnish within eight days an authority to pay such fee signed by the registered proprietor, and if such person does not furnish such authority, the Registrar may return the fee and treat it as not received.

Simple cases

59. Where the Registrar does not require such authority, he may upon receipt of the fee communicate with the registered proprietor at his registered address, stating that the fee has been received and that the registration will in due course be renewed.

Form of notice under section 26

60. Any notice sent by the Registrar in accordance with section 26 shall be in Form TM 12.

Non-payment of renewal fee – notice

61. At a time not less than 14 days and not more than one month before the expiration of the last registration of a mark, the Registrar may, if the prescribed renewal fee has not been received, send a notice to the registered proprietor at his registered address in Form TM 13.

Non-payment of renewal fee – renewal of registration if fee paid subsequently

62. If at the date of the expiration of the last registration of a mark the prescribed renewal fee has not been paid, the Registrar may, as soon as practicable, advertise the fact in the *Gazette* and, whether or not he does so, if within one month from such date of expiration the renewal fee together with Form TM 14 accompanied by the prescribed additional fee and Form TM 15 is received, the Registrar may renew the registration without removing the mark from the Register.

Non-payment of renewal fee – removal of mark from Register

63. Where after one month from the date of expiration of the last registration such fees have not been paid or such forms have not been lodged, the Registrar may remove the mark from the Register as of such date of expiration, but after such removal he may, upon payment of the renewal fee and upon receipt of Form TM 14 together with the prescribed additional fee and Form TM 16, restore the mark to the Register if satisfied that it is just to do so and may so restore the mark upon such conditions as he may think fit to impose.

Record of removal of mark from Register

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

Gazette notice of renewal etc

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

Assignments and Transmissions

Registration of assignment: joint application by assignee and proprietor

66. Where a person becomes entitled by assignment or transmission to a registered trade mark and to the goodwill of the business concerned in the goods for which it has been registered, he may, jointly with the registered proprietor, make application to the Registrar on Form TM 17 to register his title to the mark. If the Registrar so requires, the assignee shall furnish a declaration on Form TM 18.

Registration of assignment: application by assignee only

67. Where a person becomes entitled to a registered trade mark and to the goodwill of the business as mentioned in rule 66 and no joint application is made under that Rule, he shall make application to the Registrar on Form TM 19 to register his title to the mark. If the Registrar so requires, the assignee shall furnish a declaration on Form TM 18.

Particulars of assignment to be given

68. An application under rule 66 or 67 shall contain the name, trade or business address, and description of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims; and such instrument shall be produced to the Registrar for inspection, preferably at the time of application. The full names of all the partners in a partnership shall be given in the body of the application. The Registrar may in the case of any applicant require and retain an attested copy of any instrument produced for inspection in proof of title, but such copy shall not be open to public inspection. An applicant shall be required to satisfy the Registrar that the mark in respect whereof the application is made has been assigned or transmitted in connection with the goodwill of the business concerned in the goods for which the mark has been registered.

Proof of assignment or transmission where no documentary evidence

69. Where in the case of an application under rule 66 or rule 67 the person applying for registration of his title does not claim under any document or instrument which is capable in itself of furnishing either proof of his title to the mark or proof that the mark has been assigned or transmitted in connection with the goodwill of the business concerned in the goods for which the mark has been registered, he shall, unless the Registrar otherwise directs, either upon or with the application, state a case setting forth the particulars of the facts upon which his claim to be proprietor of the mark is based, and showing that the mark has been assigned or transmitted to him, and further that it has been so assigned or transmitted in connection with the goodwill of the business concerned in the goods for which the mark has been registered. If the Registrar so requires, the case shall be verified by declaration on Form TM 20.

Proof or further proof of title to trade mark

70. The Registrar may call on any person who applies to be registered as proprietor of a registered trade mark for such proof or additional proof of title, both in respect of the mark and in respect of the goodwill of the business concerned in the goods for which the mark has been registered, as he may require for his satisfaction.

Registration of new owner of trade mark

71. When the Registrar is satisfied both as to the title to the trade mark of the person who has applied to be registered as proprietor of such mark and as to the fact that the mark was assigned or transmitted to such person in connection with the goodwill of the business concerned in the goods for which the mark has been registered, the Registrar shall cause such person to be registered as the proprietor of the mark in respect of the relevant goods, and he shall enter in the Register his name, trade or business address, and description, and particulars of the assignment or transmission:

Provided however that the Registrar shall not be required to register any purported transmission or assignment of-

(a) a trade mark which is, or is deemed to be, an associated trade mark purported to be transmitted or assigned separately; or

(b) unless the Registrar's leave has been first obtained or the court has on appeal against refusal of such leave overruled such refusal, a trade mark which is a standard trade mark.

Alterations in the Register

Change of address of proprietor or user

72. A registered proprietor or registered user of a trade mark whose trade or business address is changed so that the entry in the Register is rendered incorrect shall forthwith request the Registrar on Form TM 21 to make the appropriate alteration of the address in the Register, and the Registrar shall alter the Register accordingly if he is satisfied in the matter.

Alteration of Register under section 28: preliminary

73. An application to the Registrar under section 28(1), for the alteration of the Register by correction, change, cancellation or striking out goods, or for the entry of a disclaimer or memorandum, may be made by the registered proprietor of the trade mark or by such person as shall satisfy the Registrar that he is entitled to act in the name of the registered proprietor. Such applications shall be made on Forms TM 21, TM 23, TM 24, TM 25, TM 26, TM 27, or TM 35 as may be appropriate. However, an application on either Form TM 25 or TM 26 shall be signed by the registered proprietor or such other person as the Registrar shall at his discretion allow to sign on behalf of the registered proprietor, and Form TM 35 may be signed by an agent expressly authorised for the purpose of such an application.

Alterations: Registrar may call for proof

74. In the case of an application pursuant to rule 73 the Registrar may require such evidence, by declaration or otherwise, as he may think fit as to the circumstances in which the application is made.

Disclaimer or memorandum: advertisement

75. Where application is made under section 28 (1) to enter a disclaimer or memorandum relating to a trade mark, the Registrar, before deciding upon such application, shall advertise the application in the *Gazette* in order to enable any person who desires to do so to state in writing, within one month from the advertisement, any objections to the making of the entry of the disclaimer or memorandum.

Validity, certification by court: entry in Register

76. Where the court has certified as provided in section 43, with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar on Form TM 44 to add to the entry in the Register a note that the certificate of validity has been granted in the course of the proceedings which shall be specified in the Form. An office copy of the certificate shall be sent with the request, and the Registrar shall so note the Register and publish the note in the *Gazette*.

Alteration or addition to trade mark: application under section 30

77. Where a person desires to apply under section 30 that his registered trade mark may be added to or altered, he shall make his application in writing on Form TM 28 and shall furnish the Registrar with four copies of the mark as it will appear when so added to or altered.

Advertisement in *Gazette*

78. The Registrar shall consider the application and shall if it appears to him expedient, advertise the application in the *Gazette* before deciding on it. Within one month from the date of such advertisement any person may give notice of opposition to the application on Form TM 29 accompanied by a duplicate of the notice, and may also send therewith a further statement of his objections in duplicate. The Registrar shall send the duplicate notice, and the duplicate of any further statement of objections to the applicant, and the provisions of Rules 43 to 52 shall apply *mutatis mutandis* to the

further proceedings thereon. In any case of doubt any party may apply to the Registrar for directions.

Duty of Registrar on granting application

79. If the Registrar decides to grant the application he shall add to or alter the trade mark in the Register, and if the mark so added to or altered has not been advertised under rule 78, he shall advertise the mark in the *Gazette* and in any case shall insert in the *Gazette* a notification that the mark has been altered.

Registrar may call for block or electrotype

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

Registered Users

Application for registration of user: preliminary

81. An application to the Registrar for the registration under section 34 of a person as a registered user of a registered trade mark shall be made jointly by that person and the registered proprietor on Form TM 36 and shall be accompanied by a statutory declaration made by the registered proprietor or some person authorised to act in his behalf, such declaration to be approved by the Registrar and to contain—

- (a) particulars of the relationship, existing or proposed, between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer, and a statement whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;
- (b) a statement of the goods in respect of which registration is proposed;
- (c) a statement of any conditions or restrictions proposed with respect to the characteristics of the goods, to the mode or place of permitted use, or to any other matter; and
- (d) a statement whether the permitted use is to be for a period or without limit of period, and, if for a period, the duration thereof.

Entry: contents

82. The entry of a registered user in the Register shall state the date on which such entry was made and that date shall be deemed to be the date of registration as a registered user of the person specified in the entry. The entry shall state the trade or business address of the registered user, and also any address for service which is different therefrom and has been approved upon application by him on Form TM 35.

Notification in writing of the registration of a registered user shall be sent to the registered proprietor of the trade mark, to the registered user specified in the registration, and to any other registered user whose name is entered in the Register as such in respect of the same registration of a trade mark. Such notification shall also be inserted in the *Gazette*.

Registration of user: variation

83. An application by the registered proprietor of a trade mark for the variation of the registration of a registered user of that trade mark under paragraph (a) of section 34(9) shall be made on Form TM 37, and shall be accompanied by a statement of the grounds on which it is made and, where the registered user consents, by the written consent of that registered user.

Registration of user: cancellation under paragraph (b) of section 34(9)

84. An application by the registered proprietor or any registered user of that trade mark under paragraph (b) of section 34(9) shall be made on Form TM 38, and be accompanied by a statement of the grounds on which the application is made.

Registration of user: cancellation under paragraph (c) of section 34(9)

85. An application by any person for the cancellation of the registration of a registered user under paragraph (c) of section 34(9) shall be made on Form TM 39, and shall be accompanied by a statement of the grounds on which the application is made.

Variation and cancellation: procedure following application

86. In the event of an application under any of rules 83, 84 or 85 the Registrar shall give notice in writing of such application to the registered proprietor and each registered user (not being the applicant) whose registration is the subject of the application. Any person so notified who intends to intervene in the proceedings shall, within one month of the receipt of such notification, give notice to the Registrar on Form TM 40 to that effect and shall send therewith a statement of the grounds of his intervention. The Registrar shall thereupon send copies of such notice and statement to the other parties so that the fact of the intervention may be known to the applicant, the registered proprietor, the registered user whose registration is in suit, and any other registered user who intervenes. Any such party may, within such time or times as the Registrar may appoint, leave at or send to the Registrar's office evidence in support of his case, and the Registrar, after giving the parties the opportunity of being heard, may accept or refuse the application, or accept it subject to any conditions, amendments, notifications or limitations that he may think right to impose.

Registration of user for specified term: duty of Registrar to cancel

87. In the event that the registration of a registered user is for a specified period of duration, the Registrar shall cancel the entry of the user at the end of the period. When some or all of the goods are struck out from those in respect of which a trade mark is registered, the Registrar shall at the same time strike them out from those specifications of registered users of the trade mark in which they are comprised. The Registrar shall notify every cancellation or striking out under this paragraph to the registered users whose permitted use is affected thereby and the registered proprietor of the trade mark.

Apportionment of Registered Trade Marks

Apportionment of trade marks: preliminary

88. All applications to the Registrar under section 19 shall be upon Form TM 22, and shall be accompanied by a statement setting out fully the facts relating to the registered trade marks in respect whereof the Registrar is requested to permit an apportionment.

Registrar to examine evidence

89. Upon receipt of such request and statement the Registrar shall enquire into the facts and call for such evidence as he may deem necessary in respect of the matters to which the application relates. Before giving his decision the Registrar shall, if he deems it necessary, give the parties an opportunity of attending before him at a hearing, either by themselves in person or by their agents. The decision of the Registrar shall be given in writing.

Annotation of Register

90. Upon any apportionment of marks under section 19, the Registrar shall insert in the Register a note in respect of each of the registered trade marks, such note to record the fact of the apportionment and to specify the date of the Registrar's decision upon the matter of the application.

Powers of the Registrar

Registrar's power to extend time

91. If in any particular case the Registrar is satisfied that the circumstances are such as to justify an extension of the time for doing any act, making any payment, or taking any proceeding under these Rules, he may extend the time upon such notice to other parties and proceeding therein, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act, making the payment or taking the proceeding.

Time: exclusion of days when office closed

92. Whenever the last day fixed by the Ordinance or by these Rules for doing any act or paying any fee at the office of the Registrar shall fall on a day when the office is not open to the public, which day shall be an excluded day for the purposes of the Ordinance and of these Rules, it shall be lawful to do the act or pay the fee on the first day following such excluded day that is not an excluded day.

Discretionary powers: preliminary

93. Before exercising adversely to any person any discretionary power given to the Registrar by the Ordinance or these Rules, the Registrar shall, if such person so requires, hear the representations of that person or his agent on his behalf.

Application for hearing: procedure

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

Notice to applicant. Subsequent procedure

95. Upon receiving such application the Registrar shall give the person applying fourteen days notice of a time when he may be heard by himself or his agent. Within five days from when such notice would be delivered in the ordinary course of post, the person applying shall notify the Registrar whether or not he intends to be heard on the matter. For the purposes of this rule the expression “delivered in the ordinary course of post” shall, in reference to a person applying who resides or carries on business in the Islands, have the meaning given to it in rule 8.

Notice of decision

96. The decision of the Registrar in the exercise of any such discretionary power shall be notified to the person or persons affected.

Power to dispense with evidence

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

Amendment to documents, drawings etc: discretion of Registrar

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

Power to give certificates: general

99. The Registrar may give a certificate, other than a certificate under section 13, as to any entry, matter or thing which he is authorised or required by the Ordinance or these Rules to make or do upon receipt of a request on Form TM 33 and on payment of the prescribed fee. Any person may apply for such certificate who requires the same either—

(a) to be used in legal proceedings;

(b) for the purpose of obtaining registration elsewhere than in the Islands; or

- (c) for any other purpose which, if the Registrar sees fit to so require, the applicant can show to be reasonable having regard to the interest of the applicant in the entry, matter or thing:

Except in a case falling within rule 101, the Registrar shall not be obliged to include in the certificate a copy of any mark, unless he is furnished by the applicant with a copy of such mark suitable for that purpose.

Certificates: limitations of colour

100. Where a mark is registered without limitation of colour, the Registrar may grant a certificate of its registration, for the purpose of obtaining registration elsewhere than in the Islands, either in the colour in which it appears upon the Register or in any other colour or colours; but in the last-mentioned case the certificate shall be marked: “For use in obtaining registration abroad only”.

Certificates to obtain registration abroad

101. Where a certificate of registration is desired for use in obtaining registration elsewhere than in the Islands, the Registrar shall affix to the said certificate a copy of the mark and may require the applicant to furnish him with a copy of the mark suitable for the purpose and, if the applicant fails to do so, may refuse to issue the certificate. The Registrar may state in the certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom reference to any disclaimer appearing in the Register; but in the last-mentioned case the certificate shall be marked: “For use in obtaining registration abroad only”.

Miscellaneous

Declarations: general

102. The declarations required by the Ordinance and these Rules, or used in any proceedings thereunder, shall be made and subscribed as follows—

- (a) in the Islands, before any court, judge, justice of the peace, magistrate, notary public, the Registrar General, the Registrar or other officer authorised by law to administer an oath for the purpose of any legal proceeding;
- (b) in the United Kingdom, before any justice of the peace, or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceeding;
- (c) in any other part of the Commonwealth, before any court, judge, justice of the peace, or any officer authorised by law to administer an oath there for the purpose of any legal proceeding; and
- (d) if made elsewhere than in the Commonwealth, before a British minister, or person exercising the functions of a British Minister, or a consul, vice-consul, or a notary public, or before a judge or magistrate.

Declarations: presumption of authenticity

103. Any document purporting to have affixed, impressed, or subscribed thereto or thereon the seal or signature of any person authorised by rule 102 to take a declaration, in testimony that the declaration was made and subscribed before him, may properly be admitted by the Registrar without proof of the genuineness of the seal or signature or of the official character of the person or his authority to take the declaration.

Public search

104. Any person may request the Registrar, on Form TM 30 and upon payment of the prescribed fee, to cause a search to be made in respect of specified goods classified in any class to ascertain whether any mark is on record at the date of the search which resembles a trade mark of which a representation in duplicate is sent with the Form. The Registrar shall thereupon cause a search to be made and the person requesting the search shall be informed of the result.

Days and hours of business

105. The Registrar's office shall be open to the public on Monday to Friday inclusive in each week between the hours of 10 a.m. and 1 p.m. and the hours of 2 p.m. and 3.30 p.m. for all classes of business:

Provided that the Registrar's office shall be closed to the public (except by special appointment) on public holidays and on such other days and during such periods as may from time to time be notified by a notice posted on the entrance door or in some conspicuous place at the Registrar's office.

Applications to the Court: service on Registrar

106. Every application to the Court under the Ordinance shall be served on the Registrar.

Copy of Court order for Registrar

107. Where an order has been made by the Court under the Ordinance, the person in whose favour the order has been made (or, if more than one of them, such one as the Registrar may direct) shall forthwith leave at or send to the Registrar's office an office copy of such order, together with Form TM 32 if required. The Registrar may thereupon be rectified or altered by the Registrar if he deems it necessary.

Registrar may publish Court order

108. Whenever an order is made by the Court under the Ordinance, the Registrar may, if he thinks that the order should be made public, publish it in the *Gazette*.

Advertisement in newspapers

109. In any case where the Registrar is required or empowered by the Ordinance or by these Rules to publish in the *Gazette* an advertisement of an application, he may, if he thinks fit, publish the advertisement both in the *Gazette* and in a newspaper, in which event the cost of publishing the advertisement in the newspaper shall be payable by the person making the application so published as if it were a fee prescribed by these Rules, and any period of time prescribed by these Rules, for giving notice of opposition shall, if

the date of publication in the *Gazette* precedes the date of publication in the newspaper,
commence to run from the later date.

SCHEDULE 1

(Rule 3)

LIST OF FEES PAYABLE

<i>No.</i>	<i>Matter or Proceeding</i>	<i>Fee (\$)</i>	<i>Corresponding Form</i>
1	On application to register a trade mark for one or more goods in one class	200	TM 2
2	On application not otherwise charged to register a series of trade marks for one or more goods included in one class	200	TM 2
3	On application to register a defensive trade mark for one or more goods included in one class	200	TM 34
4	On application to register a standard trade mark for one or more goods included in one class	75	TM 41
5	On application made at the same time to register one standard trade mark for goods not all included in one class— In respect of every class (Total fee in no case to exceed \$640 For any number of classes)	75	TM
6	On application pursuant to section 52(1) of the Ordinance to register a trade mark registered in the United Kingdom for one or more goods in one class	100	TM 2
7	On request to the Registrar to state grounds of decision relating to an application to register a trade mark and materials used	150	TM 4
8	On notice of opposition for each application opposed, by opponent	150	TM 5
9	On filing a counterstatement in answer to a notice of opposition, by the applicant for each application opposed	50	TM 6
10	On the hearing of each opposition, by applicant and by opponent respectively	75	TM 7
11	For registration of a trade mark for one or more goods included in one class	200	TM 9

12	For registration of a series of marks for one or more goods included in one class—		
	For the first mark	200	TM 9
	For every other mark of the series	30	
13	For registration under section 48 of the Ordinance of a standard trade mark for one or more goods included in one class	100	TM 9
14	For registration under application made at the same time of one standard trade mark under section 48 of the Ordinance, for goods not all included in every class—		
	(Total fee in no case to exceed \$600 for any number of classes)	200	TM 9
15	For registration of a defensive trade mark for one or more goods included in one class	200	TM 9
16	For registration pursuant to section 52(1) of the Ordinance of a trade mark already registered in the United Kingdom for one or more goods included in one class	100	TM 9
17	Upon each entry in the register that a registered mark is associated with a newly registered mark	30	TM 9
18	On application to register a registered user of a registered trade mark in respect of goods within the specification thereof	50	TM 36
19	On application to enter the same registered user of more than one registered trade mark of the same registered proprietor in respect of goods within the respective specifications thereof and subject to the same conditions and restrictions in each case—		
	For the first mark	50	
	For every other mark of the proprietor included in the application	30	TM 36

20	On application by the proprietor of a trade mark for the variation of the registration of a registered user of that trade mark	50	TM 37
21	On application by the proprietor of more than one trade mark to vary the entries of a registered user thereof— For the first mark For every other mark of the proprietor for which the same user is registered, included in the application	50 30	TM 37
22	On application by the registered proprietor or any registered user of a trade mark, or any other person, for cancellation of the registration of a registered user of that trade mark	40	TM 38 or TM 39
23	On application by the proprietor or registered user of more than one trade mark or any other person, for cancellation of the entries of a registered user thereof— For the first mark For every other mark of the same proprietor for which the same user is registered, included in the application	40 20	TM 38 or TM 39
24	On a notice of intention to intervene in proceedings under Rules 83, 84 or 89	150	TM 40
25	On request to enter in the Register and advertise a certificate of validity, under section 43 of the Ordinance and Rule 76	100	TM 44
26	On application to register a subsequent proprietor in cases of assignment or transmission of mark	100	TM 17 or TM 19
27	On application to register a subsequent proprietor of more than one mark registered in the same name, the devolution of title being the same in each case— For the first mark For every other mark	100 50	TM 17 or TM 19

28	On application to change the name of a proprietor of a mark where there has been no alteration in the proprietorship	50	TM 24
29	On application to change the name of a proprietor of more than one mark registered in the same name, the change being the same in each case— For the first mark For every other mark	50 30	TM 24
30	For renewal of registration of a trade mark at expiration of last registration	50	TM 11 or TM14
31	For renewal of registration of a series of marks at the expiration of last registration— For the first mark of the series For every other mark of the series	50 25	TM 11 or TM 14
32	For renewal of registration of the same standard mark with the same date for goods in more than one class— In respect of every class (Total fee in no case to exceed \$700 for any number of classes)	50	TM 11 or TM 14
33	Additional fee under Rule 62	40	TM 15
34	Additional fee under Rule 63	50	TM 16
35	For altering any entry of an address on the Register under Rule 72— For the first entry For every other entry where the address and the alteration are the same as in the first entry	10 2	TM 21
36	For cancelling or making one or more entries of an address for service of a registered proprietor or a registered user of a trade mark, on application made after the registration in each case— For each entry	5	TM 35

37	For altering one or more entries of an address for service in the Register— For each entry (Total fee in no case to exceed \$70 for any number of entries included in one application for alteration, where the address and the alteration are in each case the same)	5	TM 35
38	For every entry in the Register of a rectification thereof, or an alteration therein, not otherwise charged	15	TM 32
39	For cancelling the entry of a trade mark on the Register on the application of the registered proprietor of that trade mark	5	TM 25
40	For striking out goods from those for which a trade mark is registered on the application of the registered proprietor of that trade mark	10	TM 26
41	On request, not otherwise charged, for correction of clerical error or for permission to amend application	10	TM 23
42	On an application to the Registrar for leave to add to or alter a registered trade mark	25	TM 28
43	On an application to the Registrar for leave to add to or alter more than one registered trade mark of the same proprietor, being identical marks, the addition or alteration to be made, in each case, being the same— For the first mark For every other mark	25 10	TM 28
44	On notice of opposition to application for leave to add to or alter registered trade marks, for each application opposed	25	TM 29
45	On request by registered proprietor of a trade mark for entry of disclaimer or memorandum on the Register	10	TM 27
46	On application under Rule 37 to expunge or vary the registration of a standard trade mark, or to vary the deposited regulations of a standard trade mark or of standard trade marks		

	of the same proprietor where the regulations are substantially the same	25	TM 43
47	For a search under Rule 104 in respect of one class—		
	Without application for the Registrar's advice under Rule 17	15	TM 30
	With application for the Registrar's advice under Rule 17	20	TM 30
48	On request for the Registrar's preliminary advice under Rule 17 for each trade mark submitted in respect of one class	10	TM 31
49	On request for certificate of registration of a trade mark under Rule 99	5	TM 33
50	On request for certificate of registration of a series of trade marks under Rule 99	5	TM 33
51	For inspecting Register in connection with any particular trade mark, for every quarter of an hour	1	
52	For making authorised search amongst the classified representations of trade marks, for every quarter of an hour	1	
53	For certifying office copies, MSS, photographs or printed matter, per certificate	5	
54	In cases where the wood block or electrotpe of the trade mark, for advertisement in the <i>Gazette</i> , exceeds 50 mm. in breadth or depth, or in breadth and depth—		
	For every 25 mm. or part thereof over 50 mm. in breadth	2	
	For every 25 mm. or part thereof over 50 mm. in depth	2	
55	Application for apportionment of trade marks under Rule 88	35	TM 22
56	Annual fee for registration of trade mark	100	
57	Gazette fee (publication per page)	175	

(Substituted by L.N. 18/2009 and amended by L.N. 21/2011)

SCHEDULE 2

(Rule 4)

INDEX OF FORMS

<i>Form</i>	<i>Description</i>
TM 1	Authorisation
TM 2	Application for Registration of Trade Mark
TM 3	Additional Representation of Trade Mark
TM 4	Request for Statement of Grounds of Decision
TM 5	Notice of Opposition to Application for Registration of a Trade Mark
TM 6	Counterstatement to Opposition to Application for Registration of a Trade Mark
TM 7	Application for Hearing in Cases of Opposition
TM 8	Notice of Non-Completion of Registration
TM 9	Fee for Registration of Trade Mark
TM 10	Certificate of Registration (under section 13 of the Ordinance)
TM 11	Renewal of Registration of Trade Mark
TM 12	First Notice Before Removal of Mark from Register (under section 26 of the Ordinance)
TM 13	Second Notice Before Removal of Mark from Register (under rule 61)
TM 14	Renewal of Registration After Notice Has Been Given by Registrar
TM 15	Payment of Additional Fee to Accompany Renewal Fee after Expiration of the last Registration
TM 16	Restoration of Trade Mark Where Removed for Non-Payment of Fee
TM 17	Request by Registered Proprietor and Assignee to Register Assignee as Subsequent Proprietor
TM 18	Declaration by Assignee in Support of Request on Form TM 17 or Form TM 19
TM 19	Request to Enter Name of Subsequent Proprietor
TM 20	Declaration in Support of Request on Form TM 17 or Form TM 19
TM 21	Application for Alteration of Address on the Register
TM 22	Application for Apportionment of Trade Marks
TM 23	Correction of Clerical Error or Amendment of Application (under section 8(6) of the Ordinance)
TM 24	Request to Enter Change of Name of Registered Proprietor (or Registered User)
TM 25	Application to Cancel Entry on Register
TM 26	Request to Strike Out Goods from Those for Which a Trade Mark is Registered
TM 27	Request to Enter Disclaimer or Memorandum
TM 28	Application to Add to or Alter a Trade Mark
TM 29	Opposition to Application on Form TM 28 (To Add to or Alter a Trade Mark)
TM 30	Request for Search under rule 104
TM 31	Request for Advice on Registrability
TM 32	Notice of Order of Court for Alteration of Register
TM 33	Request for Certificate under rule 99
TM 34	Application for the Registration of a Defensive Trade Mark (under section 33 of the Ordinance)

- TM 35 Request for Entry, Alteration or Cancellation of Address for Service
 - TM 36 Application for Registration as a Registered User of a Registered Trade Mark
 - TM 37 Application by the Registered Proprietor of a Trade Mark for Variation of Registration of a Registered User
 - TM 38 Application for Cancellation of the Registration of a Registered User under section 34(9)(b) of the Ordinance
 - TM 39 Application for Cancellation of the Registration of a Registered User under section 34(9)(c) of the Ordinance
 - TM 40 Notice of Intention to Intervene in User Proceedings under rules 83, 84 or 85
 - TM 41 Application for the Registration of a Standard Trade Mark
 - TM 42 Regulations for Governing the Use of a Standard Trade Mark
 - TM 43 Application for an Order Expunging or Varying the Register relating to a Standard Trade Mark or Varying the Deposited Regulations
 - TM 44 Request for Entry and Advertisement of Certificate of Validity
-

Form TM 1

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
AUTHORISATION

*I (or We) have appointed
(a) of
to act as my (or our) agent for (b) No
and request that all notices, requisitions and communications relating thereto may be
sent to such agent at the above address.

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

I (or We) hereby declare that I am (or we are) a (c)
Dated thisday of.....20.....

(d)

Address (e)

[To be struck out if the person appointing the Agent desires his own address to be
treated as the address for service after registration.]

I (or We) also authorise the said (a)
to complete Form TM 35 requesting the entry of an address for service as part of any
registration obtained under the above authorisation.

Dated thisday of20.....

(d)

Address (e)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- * The full name of all the partners in a firm must be inserted, and the kind and country of incorporation of bodies corporate stated.
 - (a) Here insert name and address of agent.
 - (b) Here state the particular matter or proceeding for which the agent is appointed, giving the reference number if known.
 - (c) Here state nationality.
 - (d) To be signed by the person appointing the agent.
 - (e) Full trade or business address of the person appointing the agent.
-

Form TM 2

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
APPLICATION FOR REGISTRATION OF A TRADE MARK



One representation to be fixed within this space and four others to be sent on separate Forms TM 3. Representations of a large size may be folded but must then be mounted upon linen or other suitable material and affixed thereto.

Application is hereby made for registration in the Register of Trade Marks of the accompanying trade mark in Class, in respect of

(a)
..... in the name
of (b)
whose trade or business is (c).....
..... trading
as (d) by whom
it is (e) proposed to be used and who claim(s) to be the proprietor(s) thereof.
(f)

Dated thisday of 20

(g)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

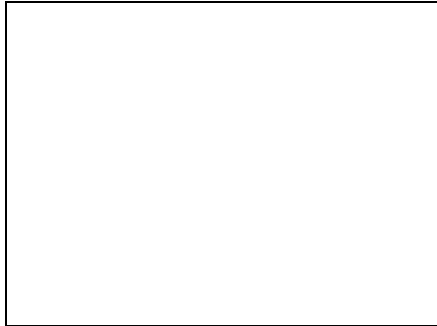
NOTE: An application pursuant to section 52(1) of the Ordinance to register a trade mark already registered in the United Kingdom should be accompanied by the certificate specified in that section.

(a) Here specify the goods. Only goods included in one and the same class should be specified. A separate application form is required for each class.

- (b) Here insert legibly the full name, description and nationality of the individual, firm or body corporate making the application. The names of all partners in a firm must be given in full. If the applicant is a body corporate, the kind and country of incorporation should be stated.
 - (c) Here insert the full trade or business address of the applicant.
 - (d) Here insert the trading style (if any).
 - (e) If the mark is already in use, strike out the words “proposed to be” and insert “being”.
 - (f) For additional matter if required, otherwise to be left blank.
 - (g) Signature.
- _____

Form TM 3

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
ADDITIONAL REPRESENTATION OF TRADE MARK



One representation of the trade mark to be affixed within this space. It must correspond exactly in all respects with the representation affixed to the Application Form. Any representation larger than the space provided may be folded but must then be mounted upon linen or other suitable material and affixed thereto.

Four of these additional representations of the trade mark must accompany each Form of application.

Form TM 4

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

REQUEST FOR STATEMENT OF GROUNDS OF DECISION

IN THE MATTER OF (a)..... the Registrar is hereby requested to state in writing the grounds of his decision dated the day of 20..... after the hearing on the day of 20..... and the materials used by him in arriving at the decision.

Dated this day of 20.....
(b).....

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

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

- (a) Insert words and number identifying the matter or proceeding.
- (b) Signature.

Form TM 5

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**NOTICE OF OPPOSITION TO APPLICATION
FOR REGISTRATION OF A TRADE MARK**

(To be accompanied by a duplicate)

IN THE MATTER OF an Application

No by
of

(a) I (or We) hereby give
notice of my (or our) intention to oppose the registration of the trade mark advertised
under the above number for Class in the *Gazette* of the day
of 20.....

No page

The grounds of opposition are as follows:

.....
(b).....

Address for service in the Turks and Caicos Islands in these proceedings:

.....

Dated this day of 20.....

(c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here state full name and address.
(b) If the registration is opposed on the ground that the mark resembles a mark or marks
already on the Register, the number of any such mark and the number of the *Gazette*
in which it has been advertised are to be set out.
(c) Signature.

Form TM 6

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
COUNTERSTATEMENT TO OPPOSITION TO APPLICATION
FOR REGISTRATION OF A TRADE MARK

IN THE MATTER OF an Opposition No

to Application No

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

.....

I (or We) admit the following allegations in the Notice of Opposition:

.....

Address for service in the Turks and Caicos Islands in these proceedings:

.....

Dated this day of 20.....

(a)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

(a) Signature.

Form TM 7

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
APPLICATION FOR HEARING IN CASES OF OPPOSITION

I (or We) (a)
of hereby give
notice that the hearing of the arguments in the case of:

- (b) (1) Opposition No to application for registration
of a trade mark No,
(2) Application that the entry in the Register in respect of trade mark
No..... may be removed,
(3) may be amended by alteration of or addition to the
trade mark,
(4) may be amended otherwise than by any change in
the mark, which, by the Registrar's Notice to me (or us) dated the
day of 20 is fixed for
a.m. or p.m. at the office of the Registrar, Grand Turk, Turks and Caicos Islands,
on the day of 20....., will be
attended by me (or us) or by some person on my (or our) behalf.

Dated this day of 20.....

- (c)
(d)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert name and address.
(b) Strike out words here that are not applicable, so as to state one of the cases (1) to (4)
only.
(c) Signature.
(d) Address.

Form TM 8

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

NOTICE OF NON-COMPLETION OF REGISTRATION

No

The Registrar, as required by section 14 of the Trade Marks Ordinance, has to draw your attention to the fact that the registration of the trade mark in respect of which your application numbered as above was made on the day of 20 has not been completed by reason of your default. Unless it is completed within one month from this date the application will be treated as abandoned.

Dated this day of 20.....

.....
Registrar.

To:

.....

The Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

Form TM 9

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
FEE FOR REGISTRATION OF A TRADE MARK

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

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

Dated thisday of20

*

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

Note: A request for the entry of an address for service of the registered proprietor may be made without payment of a fee if the Form TM 35 accompanies this Form.

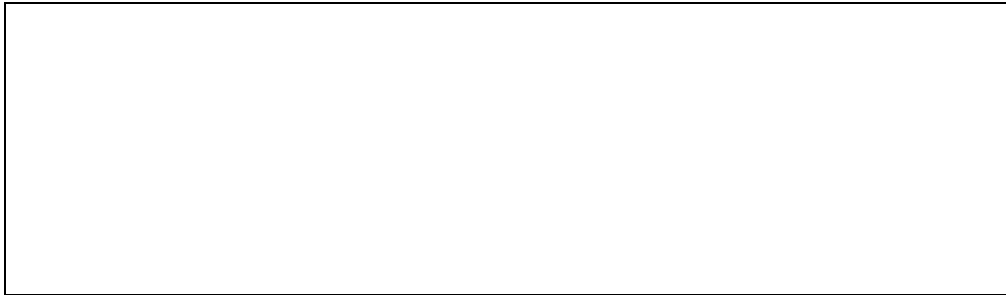
*Signature.

Form TM 10

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
CERTIFICATE OF REGISTRATION

To:

of:



I CERTIFY that the trade mark shown above has been registered in the Register of Trade Marks for the Turks and Caicos Islands in the name of of in Class Under No as of the day of 20 in respect of the following goods

SEALLED at my direction, this day of20

.....
Registrar.

The Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

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

This certificate is not for use in legal proceedings or for obtaining registration abroad.
Note: Upon any change of ownership of this trade mark, or change in address, application should at once be made to the Registrar to register the change.

Form TM 11

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
RENEWAL OF REGISTRATION OF TRADE MARK

(a) I (or We)
of hereby transmit
the prescribed fee of \$..... for renewal of registration of the trade mark
No in Class, which I am directed by the
proprietor of the trade mark, namely (b) of
..... to pay.

The Registrar is requested to send notice of renewal of the registration to (c) the
registered proprietor at the following address

.....
.

Dated this day of 20.....

(d)

(e)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Insert here the name and address of the person paying the fee.
- (b) If the fee is not paid by the proprietor himself, insert his name and address here.
- (c) If the request is signed by the registered proprietor strike out here the words “the registered proprietor” and substitute the word “me”.
- (d) Signature of the person paying the fee.
- (e) Address of the person signing.

Form TM 12

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

FIRST NOTICE BEFORE REMOVAL OF MARK FROM THE REGISTER

No

To: of

.....

The Registrar, as required by section 26 of the Trade Marks Ordinance, gives notice to you, as the registered proprietor of the above-numbered trade mark, that the existing registration of such trade mark will expire on the day of 20 Renewal of the registration may be obtained by sending to or leaving at the Registrar's Office the Form TM 11 accompanied by the prescribed fee of \$ If at the date of the expiration of the registration the prescribed renewal fee has not been paid, the Registrar may, as soon as practicable, advertise the fact in the *Gazette* and, whether or not he does so, if within one month from such date of expiration the renewal fee together with Form TM 14 accompanied by the prescribed additional fee and Form TM 15 is received, the Registrar may renew the registration without removing the mark from the Register (rule 62).

Where after one month from the date of expiration of the last registration such fees have not been paid or such forms have not been lodged, the Registrar may remove the mark from the Register as of such date of expiration, but after such removal he may, upon payment of the renewal fee and upon receipt of Form TM 14 together with the prescribed additional fee and Form TM 16, restore the mark to the Register if satisfied that it is just to do so and may so restore the mark upon such conditions as he may think fit to impose (rule 63).

Dated this day of 20.....

.....

Registrar.

The Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

Form TM 13

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

SECOND NOTICE BEFORE REMOVAL OF MARK FROM THE REGISTER

No

To: of

.....

The Registrar, as empowered by rule 61 of the Trade Marks Rules, gives notice to you as the registered proprietor of the above-numbered trade mark, that the existing registration of such trade mark will expire on the day of 20

Renewal of the registration may be obtained by sending to or leaving at the Registrar's Office the Form TM 11 accompanied by the prescribed fee of \$

Failure to pay the prescribed renewal fee may lead to the removal of the trade mark from the Register. You are referred to the provisions of sections 26 and 27 of Trade Marks Ordinance and to rules 62 and 63 of the Trade Marks Rules.

Dated this day of 20.....

.....
Registrar.

The Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

Form TM 14

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**RENEWAL OF REGISTRATION AFTER
NOTICE HAS BEEN GIVEN BY THE REGISTRAR**

I (or We)
of in pursuance
of the Notice issued by you, hereby transmit the prescribed fee of \$
for the renewal of registration of trade mark No in
Class

Dated this day of 20.....

(a).....

To The Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

(a) Signature.

Form TM 15

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**PAYMENT OF ADDITIONAL FEE TO ACCOMPANY RENEWAL FEE
AFTER EXPIRATION OF THE LAST REGISTRATION**

I (or We)
of in
pursuance of the Notice issued by you, hereby transmit the additional fee of
\$. (together with Form TM 14) for the renewal of registration of trade
mark No in Class

Dated this day of 20.....

(a)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

(a) Signature.

Form TM 16

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**RESTORATION OF TRADE MARK
WHERE REMOVED FOR NON-PAYMENT OF FEE**

I (or We)
of in pursuance
of the Notice issued by you, hereby transmit the additional fee of \$.....
(together with Form TM 14) for the restoration to the Trade Marks Register of trade
mark No in Class

Dated this day of 20.....

(a)

To the Registrar of Trade Marks,
Grand Turks,
Turks and Caicos Islands,
British West Indies.

(a) Signature.

Form TM 17

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**REQUEST BY REGISTERED PROPRIETOR AND ASSIGNEE
TO REGISTER ASSIGNEE AS SUBSEQUENT PROPRIETOR**

We (a) and
(b) hereby
request, under rule 66, that the name of (c)
carrying out business as (d) at
(e), may be
entered in the register of Trade Marks as proprietor of the trade mark(s)
No(s)..... in Class..... as from the (f)
by virtue of (g)
(h) The trade mark(s) has (have), by virtue of such instrument of assignment or
transmission, been assigned or transmitted in connection with the goodwill of the
business concerned in the goods for which the mark(s) has (have) been registered.

Dated this day of 20.....

- (i)
- (j)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

NOTE: The instrument under which the transferee claims should preferably accompany
this Form.

A request for the entry of an address for service of the subsequent proprietor may be
made without payment of fee, if Form TM 35 accompanies this Form.

- (a) Name and address of registered proprietor, or other assignor or transmitter.
- (b) Full name, trade address and nationality of transferee.
- (c) Name of transferee.
- (d) Description of transferee.
- (e) Trade or business address of transferee.
- (f) Date of acquisition of proprietorship.
- (g) Full particulars of the instrument of assignment or transmission, if any, or statement
of case.
- (h) Strike out any words not applicable.
- (i) Signature of assignor or transmitter.
- (j) Signature of transferee.

Form TM 18

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**DECLARATION BY ASSIGNEE IN SUPPORT OF REQUEST
ON FORM TM 17 OR FORM TM 19**

I,
of do hereby solemnly and
sincerely declare that the trade mark No in Class
has been assigned or transmitted to me by
of together with the goodwill
of the business concerned in the goods for which that trade mark has been registered,
and that I have accepted such assignment or transmission.

And I make this declaration conscientiously believing the same to be true [and by virtue
of (a)]

Declared at }
this day of } (b)
20 }
Before me, (c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) State any statutory or other authority under which declaration is made.
- (b) Signature of declarer.
- (c) Signature of person before whom declaration is made.

Form TM 19

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

REQUEST TO ENTER NAME OF SUBSEQUENT PROPRIETOR

I (or We) (a)
hereby request that my (or our) name(s) may be entered in the Register of Trade Marks
as proprietor(s) of trade mark(s) No(s)in Class as from the (b)
.....

I am (or We are) entitled to the trade mark(s) by virtue of (c)
.....

(d) The trade mark(s) has (have), by virtue of such instrument of assignment or
transmission, been assigned or transmitted in connection with the goodwill of the
business concerned in the goods for which the mark(s) has (have) been registered.

Dated this day of 20.....

(e)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

NOTE: The instrument under which the transferee claims should preferably accompany
this Form.

A request for the entry of an address for service of the subsequent proprietor may be
made without payment of fee, if Form TM 35 accompanies this Form.

- (a) Here insert full name, trade or business address, nationality and description.
- (b) Date of acquisition of proprietorship.
- (c) Here insert full particulars of the assignment or transmission, if any, or statement of
case.
- (d) Strike out any words not applicable.
- (e) Signature.

Form TM 20

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**DECLARATION IN SUPPORT OF REQUEST
ON FORM TM 17 OR FORM TM 19**

I,
of do hereby
solemnly and sincerely declare that the particulars set out in the Statement of Case,
exhibit marked and left by me in
connection with my request to be registered as subsequent proprietor of the trade mark
No in Class are true and comprise every material
fact and document affecting the present proprietorship of the trade mark.

And I make this solemn declaration conscientiously believing the same to be true [and
by virtue of (a)]

Declared at
this day of } (b)
20 }
Before me, (c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) State any statutory or other authority under which declaration is made.
- (b) Signature of declarer.
- (c) Signature of person before whom declaration is made.

Form TM 21

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

APPLICATION FOR ALTERATION OF ADDRESS ON THE REGISTER

IN THE MATTER OF the Trade Mark(s) No(s) registered
in Class

I (or We)
of, being the
registered (a) proprietor(s)/user(s) of the trade mark(s) numbered as above, request that
my (or our) trade address in the Register of Trade Marks be altered
to

Dated this day of 20

(b)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Strike out whichever word is inapplicable.
- (b) Signature.

Form TM 22

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
APPLICATION FOR APPORTIONMENT OF TRADE MARKS

IN THE MATTER OF the Trade Marks Nos registered
in Class(es)

We (a) being

(b)
hereby request that, under the power conferred by section 19 of the Trade Marks
Ordinance, the above-mentioned trade marks be apportioned in manner following, that is
to say:

.....
.....
or otherwise as the Registrar may permit, subject to such conditions and modifications,
if any, as he may consider desirable in the public interest.

Dated this day of 20.....

(c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Full names and addresses of applicants.
- (b) Here state the interest of the applicants in the matter.
- (c) Signature of applicants.

Form TM 23

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

CORRECTION OF CLERICAL ERROR OR AMENDMENT OF APPLICATION

IN THE MATTER OF (a)
I (or We)
of
being the hereby request
that

Dated this day of 20.....
(b)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert words and reference number identifying the entry or application.
- (b) Signature.

Form TM 24

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**REQUEST TO ENTER CHANGE OF NAME OF REGISTERED PROPRIETOR
(OR REGISTERED USER)**

I (or We), (a)
hereby request that my (or our) name(s) and description(s) may be entered in the
Register of Trade Marks as registered proprietor(s) or registered user(s) of the trade
mark(s) No(s)..... registered in Class

I am (or We are) entitled to the said trade mark (or to use the said trade mark as
registered user(s)). There has been no change in the actual proprietorship (or identity of
the user(s)) of the said trade mark but (b)

The entry at present standing on the Register gives my (or our) name(s) and
description(s) as follows
.....

Dated this day of 20.....

(c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert present address and description of registered proprietor, or registered user.
- (b) Here state the circumstances under which the change of name took place.
- (c) Signature.

Form TM 25

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
APPLICATION TO CANCEL ENTRY ON THE REGISTER

IN THE MATTER OF Trade Mark No
Class
Name of registered proprietor
.....
Trade or business address
Description
Application is hereby made by
of (a)
[or by a member of the Firm
of of (a)
on behalf of my said Firm] that
the entry in the Register of Trade Marks of the trade mark
No in Class may be
cancelled.

Dated this day of 20.....
(b)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert the trade or business address and description of the applicant(s) or his (their) firm.
- (b) Signature.

Form TM 26

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**REQUEST TO STRIKE OUT GOODS FROM THOSE
FOR WHICH A TRADE MARK IS REGISTERED**

IN THE MATTER OF Trade Mark No

Class

Name of registered proprietor

Trade or business address

Description

Request is hereby made by

of (a)

[or by a member of the firm
of of (a)
on behalf of my said firm]

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

Dated this day of 20.....
(c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert the trade or business address and description of applicant(s) or his (their) firm.
- (b) Here designate the goods to be struck out.
- (c) Signature.

Form TM 27

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

REQUEST TO ENTER DISCLAIMER OR MEMORANDUM

Request is hereby made by (a)
of
for the addition to the entry in the Register in connection with trade mark No.....
in Class of the following—
.....
.....

Dated this day of 20.....

(b)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert the name, trade or business address and description of the registered proprietor.
- (b) Signature.

Form TM 28

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
APPLICATION TO ADD TO OR ALTER A TRADE MARK

IN THE MATTER OF the Trade Mark

No. in Class

Application is hereby made by (a)
of being the registered proprietor(s) of the
registered trade mark numbered as above, that the Registrar shall add to it or alter it in
the following particulars, that is to say (b)

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

Dated this day of 20.....

(c).....

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert name, trade or business address and description.
- (b) Here fill in full particulars.
- (c) Signature.

Form TM 29

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**OPPOSITION TO APPLICATION ON FORM TM 28
(TO ADD TO OR ALTER A TRADE MARK)**

(To be accompanied by a duplicate)

IN THE MATTER OF Trade Mark No registered
in Class

I (or We) (a)
of

hereby give notice of my (or our) intention to oppose the addition to or alteration of the
trade mark numbered and registered as above, so that it shall be in the form shown in the
application of (b).....

.....
advertised in the *Gazette* of the day of 20.....
No, page

The grounds of opposition are as follows—

.....
.....

Address for service in the Turks and Caicos Islands in these proceedings:

.....

Dated this day of 20.....

(c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here state full name and address.
- (b) Name of applicant.
- (c) Signature.

Form TM 30

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
REQUEST FOR SEARCH UNDER RULE 104

The Registrar is hereby requested under rule 104 of the Trade Marks Rules to search in Class* in respect of (a)
.....to ascertain whether any trade marks are on record which resemble the trade mark sent herewith in duplicate (each representation being mounted on a half-sheet of foolscap).

Dated this day of 20.....

(b)

(c),.....

REQUEST FOR REGISTRAR'S PRELIMINARY ADVICE UNDER RULE 17

I (or We) (d)
of
hereby request the Registrar to advise me (or us) whether the trade mark referred to above appears to him *prima facie* to be adapted to distinguish my (or our) goods above mentioned so as to comply with the requirements of section 5 of the Trade Marks Ordinance for registrability in the Register.

Dated this day of 20.....

(e)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

NOTE: If the Request for Preliminary Advice is completed, the Form should be accompanied by the additional fee (Fee No. 20).

* *The Registrar's direction should be obtained if the class is not known.*

- (a) Here specify the goods (in the class stated) in respect of which the search is to be made.
- (b) Signature.
- (c) Address.
- (d) Here state name and address in full.
- (e) Signature.

Form TM 31

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

REQUEST FOR ADVICE ON REGISTRABILITY

I (or We) (a)
hereby request the Registrar to advise me (or us) whether the trade mark shown on the
accompanying foolscap sheet (in duplicate) appears to him *prima facie* to be adapted to
distinguish my (or our) goods so as to comply with the requirements of section 5 of the
Trade Marks Ordinance for registrability in the Register.

The goods in respect of which I (or we) propose to apply for registration of the said trade
mark are (b)
.....
in Class (c)

Dated this day of 20.....

(d)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here state name and address in full.
- (b) Here specify the goods. Only goods included in one and the same class should be specified. A separate form of request is required for each class.
- (c) Here insert the number of the Class (if known).
In case of doubt the Registrar's direction may be obtained.
- (d) Signature.

Form TM 32

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

NOTICE OF ORDER OF COURT FOR ALTERATION OF REGISTER

IN THE MATTER OF the Trade Mark No..... registered
in Class in the name of
Notice is hereby given to the Registrar that, by an Order of the Court made on
the day of 20 it was directed that

.....
.....

An Office Copy of the Order of the Court is enclosed herewith.

Dated this day of 20.....

*

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

*Signature of person interested or his agent.

Form TM 33

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
REQUEST FOR CERTIFICATE UNDER RULE 99

IN THE MATTER OF the Trade Mark No registered in Class

I (or We)

of

hereby request the Registrar to furnish me (or us) with- (b) his certificate that

(a)

(b) a certificate of registration of the above-numbered trade mark.

The certificate is required (c)

..... my

(or our) interest in the matter is as (d)

(e)

(f)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here set out the particulars which the Registrar is requested to certify.
- (b) Strike out words which are not applicable.
- (c) Here state the purpose for which the certificate is required.
- (d) Here insert particulars of the applicant's interest in the entry, matter or thing.
- (e) Signature.
- (f) Address.

Form TM 34

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

APPLICATION FOR THE REGISTRATION OF A DEFENSIVE TRADE MARK

One representation to be fixed within this space and four others to be sent on separate Forms TM 3.

Application is hereby made for registration in the Register of the above word(s) as a defensive trade mark in Class in respect of (a) in the name of (b) of (c) trading as (d) who is (are) the proprietor(s) of the same trade mark registered in Class (e)..... in respect of under No

According to my (our) information and belief, the word(s) is (are) invented.

The particulars of the facts on which I (We) rely in support of this application are set forth in the accompanying statement of case (f).

Dated this day of 20.....
(g)

To the Registrar of Trade Marks.
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here specify the goods. Only goods included in one and the same Class should be specified.
- (b) Here insert legibly the full name, description and nationality of the individual, firm or body corporate making the application. The names of all partners in a firm must be given in full. If the applicant is a body corporate, the kind and country of incorporation should be stated.
- (c) Here insert the full trade or business address of the applicant.
- (d) Here insert the trading style, if any.
- (e) Here insert particulars of the applicant's registration of the trade mark.
- (f) To be furnished in duplicate.
- (g) Signature.

Form TM 35

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**REQUEST FOR ENTRY, ALTERATION OR
CANCELLATION OF ADDRESS FOR SERVICE**

Request is made by (a)
.....
*who is about to be registered as (or) who is the registered (b) proprietor (user) of trade
mark No(s) registered in Class for the (c) inclusion,
addition, alteration or substitution of an address for service in the Turks and Caicos
Islands in or to the entry thereof so that the address for service in the Islands may read as
follows:*

(d)

Dated this day of 20.....

(e)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

NOTE: A request on this Form to enter an initial address for service as part of a
registration may be made without a fee if it accompanies any of Forms TM 2,
TM 17, TM 19 or TM 36.

- (a) Here insert the full name and trade or business address of the person making the request.
- (b) Strike out such of the words in italic type as are inappropriate.
- (c) Strike out inapplicable words.
- (d) State here the precise entry or changed entry desired.
- (e) Signature.

Form TM 36

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**APPLICATION FOR REGISTRATION AS A REGISTERED USER
OF A REGISTERED TRADE MARK**

[To be accompanied, as required by section 34(4) of the Ordinance, by a Statutory Declaration, which shall contain the particulars prescribed in rule 81.]

Application is hereby made by (a)
who is (or are) the registered proprietor(s) of trade mark(s) No(s).
registered in Class respect of (b).....
that (c) of (d)
trading as (e) who hereby
joins in the application, may be registered as a registered user of the above-mentioned
registered trade mark(s) in respect of (f) subject to the
following conditions or restrictions—

(g).....
(h) The proposed permitted use is to end on the day of
20 (or) the proposed permitted use is without limit of period.

Dated this day of 20.....

(i)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

NOTE: A request for the entry of an address for service of the registered user may be made without payment of fee if the Form TM 35 accompanies this Form.

- (a) Here insert full name, trade or business address and description of the registered proprietor(s).
- (b) Here insert the specification in the Register.
- (c) Here insert the full name, description and nationality of the individual, firm, or body corporate, proposed as registered user.
- (d) Here insert the full trade or business address of the proposed registered user.
- (e) Here insert the trading style, if any.
- (f) Here insert designation of goods (which must be comprised within the specification).
- (g) Write "None" if there are no conditions or restrictions.
- (h) Strike out the words that are inapplicable.
- (i) Signatures of the proprietor(s) and proposed registered user.

Form TM 37

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**APPLICATION BY THE REGISTERED PROPRIETOR OF A TRADE MARK
FOR VARIATION OF THE REGISTRATION OF A REGISTERED USER**

[To be accompanied by a statement of the grounds on which the application is made and the written consent, if given, of the registered user (rule 83).]

Application is hereby made by (a)
.....
the proprietor of trade mark(s) No(s) registered in
Class in respect of (b)
that the registration of (c)
.....
as a registered user of the above-mentioned trade mark(s) in respect of
(d) may be varied in the following manner:
(e)
.....

Dated this day of 20.....
(f)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert the full name, description and trade or business address of the registered proprietor.
- (b) Here insert the specification in the Register.
- (c) Here insert the full name, description and trade or business address of the registered user.
- (d) Here insert the goods in respect of which the user is registered.
- (e) Here state in terms the manner in which it is requested that the entry should be varied.
- (f) Signature.

Form TM 38

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**APPLICATION FOR CANCELLATION OF THE REGISTRATION OF A
REGISTERED USER UNDER SECTION 34(9)(B) OF THE ORDINANCE**

[To be accompanied by a statement of the grounds on which the application is made.]

Application is hereby made by (a)
being (b) the registered proprietor (a registered user) of trade mark(s)
No(s)..... registered in Class in respect of
(c) for the cancellation of the entry under
the above-mentioned registration(s) of (d)
..... as
a registered user of the trade mark(s) in respect of (e)
The grounds for this application are set forth in the accompanying statement.

Dated this day of 20.....

(f)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert the full name, description and trade or business address of the applicant(s).
- (b) Strike out the inapplicable words.
- (c) Here insert the specification in the Register.
- (d) Here insert the full name, description and trade or business address of the registered user.
- (e) Here insert goods in respect of which that registered user is entered.
- (f) Signature(s).

Form TM 39

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**APPLICATION FOR CANCELLATION OF THE REGISTRATION OF A REGISTERED USER
UNDER SECTION 34(9)(C) OF THE ORDINANCE**

[To be accompanied by a statement of the grounds on which the application is made.]

IN THE MATTER OF Trade Mark(s) registered
in Class in the name of (a)

Application is hereby made by (b)

(whose address for service in the Turks and Caicos Islands in these proceedings is

for the cancellation of the entry under the above-mentioned registration(s) of

(c) as

the registered user thereof in respect of (d)

The grounds of this application, particulars of which are given in detail in the
accompanying statement of grounds, are—

(e)

Dated this day of 20.....

(f)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here insert the name, trade or business address and description of the registered proprietor as entered in the Register.
- (b) Here insert the name and address of the applicant.
- (c) Here insert the name, trade of business address and description of the registered user.
- (d) Here insert the goods in respect of which the registered user is entered.
- (e) Here insert one or more of the subparagraphs (i), (ii) and (iii).of section 34(9)(c) .
- (f) Signature.

Form TM 40

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**NOTICE OF INTENTION TO INTERVENE IN
USER PROCEEDINGS UNDER RULES 83, 84 OR 85**

[To be accompanied by a statement of the grounds for intervention.]

IN THE MATTER OF a Trade Mark No registered in Class
in the name of (a)

and

IN THE MATTER OF a registration of (b)
..... thereunder
as a registered user of the trade mark.

In reply to the Registrar's notification, dated the day of
20, notice is hereby given of my intention to intervene in the proceedings in
the above matter. My address for service in the Turks and Caicos Islands for the purpose
of these proceedings is

Dated this day of 20.....

(c)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

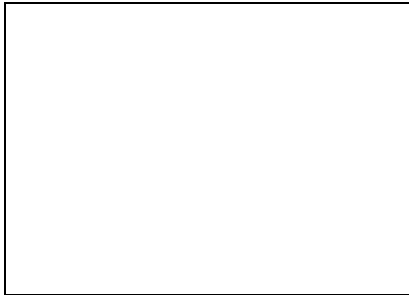
- (a) Here insert the name of the registered proprietor.
- (b) Here insert the name, trade or business address and description of the registered user.
- (c) Signature.

Form TM 41

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

APPLICATION FOR THE REGISTRATION OF A STANDARD TRADE MARK

[To be accompanied by two duplicates]



One representation to be fixed within this space, and six others to be sent on separate Forms TM 3. Representations of a larger size may be folded, but must then be mounted upon linen or other suitable material and affixed hereto.

Application is hereby made for registration in the Register of the accompanying standard trade mark in Class in respect of (a)
in the name of (b)
whose address is (c)

Dated this day of 20.....
(d)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here specify the goods. Only goods included in one and the same class should be specified. A separate application form is required for each class.
- (b) Here insert the full name, description and nationality of the applicant. If the applicant is a body corporate, the kind and country of incorporation should be stated.
- (c) Here insert the full address of the applicant.
- (d) Signature.

Form TM 42

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
REGULATIONS FOR GOVERNING THE USE OF A STANDARD TRADE MARK

[To be submitted in duplicate]

These Regulations govern the use of standard trade mark No..... in
class in respect of (a)
.....
.....

[For Official Use]

Advertised in *Gazette* No at page on
the day of 20.....

Date of Application and
Registration 20

(a) Here specify the goods of the registration.

Form TM 43

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE

**APPLICATION FOR AN ORDER EXPUNGING OR
VARYING THE REGISTER RELATING TO A STANDARD TRADE MARK OR VARYING THE
DEPOSITED REGULATIONS**

[To be accompanied by a copy and a Statement of Case in duplicate]

IN THE MATTER OF Standard Trade Mark No registered in the name
of in Class
I (or We) (a)
being (an) aggrieved person(s), hereby apply for an Order that:

1. (b) The entry in the Register in respect of the above mentioned Trade Mark may be (c)
expunged (or) varied in the following manner—

.....
.....

2. (b) The deposited Regulations governing the use of the above mentioned Trade Mark
may be varied in the following manner—

.....
.....

The grounds of my (our) application are as follows—

.....
.....

Address for service in the Turks and Caicos Islands in these proceedings:

.....

Dated this day of 20.....

(d)

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here state name and address.
- (b) Strike out whichever paragraph is inapplicable.
- (c) Delete such words as are inapplicable.
- (d) Signature.

Form TM 44

THE TURKS AND CAICOS ISLANDS
TRADE MARKS ORDINANCE
**REQUEST FOR ENTRY AND ADVERTISEMENT
OF CERTIFICATE OF VALIDITY**

IN THE MATTER OF Trade Mark(s) No(s) registered
in Class in the name of

I (or We) (a) hereby request
the Registrar to add to the above-mentioned entry(ies) of a Trade Mark in the Register,
and to advertise in the *Gazette*, a note that in (b)

.....
the Court certified that the validity of the registration(s) came into question and was
decided in favour of the proprietor of the Trade Mark in the terms of the accompanying
Office Copy of the certificate of validity.

Dated this day of 20.....

To the Registrar of Trade Marks,
Grand Turk,
Turks and Caicos Islands,
British West Indies.

- (a) Here state the name and address of the registered proprietor.
- (b) Here state the nature of the proceedings with the names of the parties to them, in which the certificate was given.
- (c) Signature.

SCHEDULE 3

(Rule 5)

CLASSIFICATION OF GOODS

NAMES OF THE CLASSES

(Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other classes.)

- | | |
|---------|---|
| Class 1 | Chemical products used in industry, science, photography, agriculture, horticulture, forestry; artificial and synthetic resins; plastics in the form of powders, liquids or pastes for industrial use; manures (natural and artificial); fire extinguishing compositions; tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry. |
| Class 2 | Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colouring matters, dyestuffs; mordants; natural resins; metals in foil and powder form for painters and decorators. |
| Class 3 | Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices. |
| Class 4 | Industrial oils and greases (other than edible oils and fats and essential oils); lubricants; dust laying and absorbing compositions, fuels (including motor spirit) and illuminants; candles, tapers, nightlights and wicks. |
| Class 5 | Pharmaceutical, veterinary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax; disinfectants; preparations for killing weeds and destroying vermin. |
| Class 6 | Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains (except driving chains for vehicles); cables and wires (non-electric); locksmith's work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in non-precious metal not included in other classes; ores. |
| Class 7 | Machines and machine tools; motors (except for land vehicles); machine couplings and belting (except for land vehicles); large size agricultural implements; incubators. |
| Class 8 | Hand tools and instruments; cutlery, forks and spoons; side arms. |

- Class 9 Scientific, nautical, surveying and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), lifesaving and teaching apparatus and instruments; coin or counterfeited apparatus; talking machines; cash registers; calculating machines; fire-extinguishing apparatus.
- Class 10 Surgical, medical, dental and veterinary instruments and apparatus (including artificial limbs, eyes and teeth).
- Class 11 Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.
- Class 12 Vehicles; apparatus for locomotion by land, air or water.
- Class 13 Firearms; ammunition and projectiles; explosive substances; fireworks.
- Class 14 Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery, precious stones; horological and other chronometric instruments.
- Class 15 Musical instruments (other than talking machines and wireless apparatus).
- Class 16 Paper and paper articles, cardboard and cardboard articles; printed matter, newspapers and periodicals, books, bookbinding material; photographs, stationery, adhesive materials (stationery); artists' materials; paint brushes, typewriters and office requisites (other than furniture); instructional and teaching material (other than apparatus); playing cards; (printers') type and clichés (stereotype).
- Class 17 Gutta percha, india rubber, balata and substitutes, articles made from these substances and not included in other classes; materials for packing, stopping or insulating; asbestos, mica and their products; hose-pipes (non-metallic); plastics in the form of sheets, blocks, rods and tubes, being for use in manufactures.
- Class 18 Leather and imitations of leather, and articles made from these materials, and not included in other classes; skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.
- Class 19 Building materials, natural and artificial stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road-making materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.
- Class 20 Furniture, mirrors, picture frames; articles (not included in other classes) of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, substitutes for all these materials, or of plastic or plastics.

- Class 21 Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.
- Class 22 Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.
- Class 23 Yarns and threads, for textile use.
- Class 24 Textiles and textile goods, not included in other classes; bed and table covers.
- Class 25 Clothing, footwear, headgear.
- Class 26 Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.
- Class 27 Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).
- Class 28 Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.
- Class 29 Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats.
- Class 30 Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard, vinegar, sauces (condiments); spices; ice.
- Class 31 Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.
- Class 32 Beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices; syrups and other preparations for making beverages.
- Class 33 Alcoholic beverages (except beer).
- Class 34 Tobacco; smokers' articles; matches.

(Amended by L.N. 17/1996)

CLASSIFICATION OF SERVICES

- Class 35 Advertising, business management, business administration and office functions.
- Class 36 Insurance, financial affairs, monetary affairs and real estate affairs.
- Class 37 Building construction, repair and installation services.
- Class 38 Telecommunications.
- Class 39 Transportation, packing and storage of goods and travel arrangements.
- Class 40 Treatment of materials.
- Class 41 Education, providing of training, entertainment and sporting and cultural activities.
- Class 42 Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software; legal services.
- Class 43 Services for providing food and drink; temporary accommodation.
- Class 44 Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.
- Class 45 Personal and social services rendered by others to meet the needs of individuals; security services for the protection of property and individuals.

(Inserted by L.N. 31/2000 and amended by L.N. 17/2006)
