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CHAPTER 81

REGISTRATION OF UNITED KINGDOM TRADE MARKS

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REGISTRATION OF UNITED KINGDOM TRADE MARKS

1. Interpretation

In this Act, unless the context otherwise requires –

"Minister" means the Minister responsible for commerce;

"prescribed" means prescribed by this Act or by rules made thereunder;

"Register" means the Register of Trade Marks kept under the provisions of section 13;

"Registrar" means the person appointed the Registrar of United Kingdom Trade Marks for the purposes of this Act who shall be a public servant;

"United Kingdom" includes the Isle of Man.

2. Application to register trade marks registered in United Kingdom

Any person being the registered proprietor of a trade mark in the United Kingdom by virtue of an entry in the register of trade marks kept under the Trade Marks Act, 1938, of the United Kingdom or any Act amending or substituted for that Act, or any person deriving title from such registered proprietor by assignment or other mode of transfer, may apply at any time during the existence of the registration in the United Kingdom to have such trade mark registered in Vanuatu in respect of some or all the goods comprised in the United Kingdom registration.

3. Documents required on application for registration

An application for registration of a trade mark under this Act shall be made to the Registrar and accompanied by a certified representation of the trade mark and a certificate of the Comptroller-General of the United Kingdom Patent Office (under his title of Registrar of Trade Marks) giving full particulars of the registration of the trade mark in the United Kingdom.

4. Registration

Upon such application being lodged in accordance with section 3, the Registrar may register the prescribed particulars in the Register and upon doing so shall issue a Certificate of Registration to the applicant who shall then be the registered proprietor in Vanuatu of the trade mark in respect of the goods entered in the Register.

5. Effect of Certificate

Subject to the provisions of this Act, a registered proprietor shall have in Vanuatu such privileges and rights in the use of the trade mark in respect of the goods entered in the Register as *mutatis mutandis* would be conferred on him by law for the time being in force in the United Kingdom.

6. Period for which effective

The privileges and rights conferred by section 5 shall date from the date of registration in the United Kingdom and shall continue in force, subject to the provisions of section 14, for so long as such registration in the United Kingdom remains in force in respect of the goods for which the trade mark is registered in Vanuatu:

Provided that no action for infringement of the trade mark shall be entertained in respect of any use of the trade mark prior to the date of the issue of the Certificate of Registration in Vanuatu.

7. Saving of "passing off" action
Nothing in this Act shall be deemed to affect any right of action against any person for passing off goods as those of another person or any remedy in respect thereof.

8. Jurisdiction of Supreme Court
The Supreme Court shall have power, upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a Certificate of Registration, to declare on any of the grounds *mutatis mutandis* on which the United Kingdom registration might be cancelled under the law for the time being in force in the United Kingdom, that the exclusive privileges and rights have not been acquired.

9. Entry in Register of assignments
Subject to the provisions of this Act, where a person becomes entitled by assignment or other mode of transfer to the privileges and rights conferred on a registered proprietor by this Act, the Registrar shall, on application being made in the prescribed manner and on proof of title to his satisfaction, cause such person to be entered in the Register as subsequent registered proprietor of the trade mark.

10. Registered users
Any person entered in the United Kingdom Register of Trade Marks under section 28 of the Trade Marks Act, 1938, of the United Kingdom as a registered user in respect of any goods of a trade mark in respect of which a Certificate of Registration under this Act is in force, may apply to be registered in Vanuatu as a registered user of the mark in respect of some or all of such goods, subject to any conditions or restrictions entered in the United Kingdom Register.

11. Rights of registered users
Upon such application being lodged, together with a certificate of the United Kingdom Register of Trade Marks giving full particulars of the entry in the United Kingdom Register under the said section 28, the Registrar shall cause the applicant to be entered in the Register as a registered user of the trade mark, and on such entry the registered user shall be entitled in Vanuatu, subject to the aforesaid conditions and restrictions, to such privileges and rights in respect of the goods for which he is entered as *mutatis mutandis* would be conferred on him by the law for the time being in force in the United Kingdom.

12. Power to make rules and prescribe fees
The Minister may make such rules and do such things as he may think expedient, subject to the provisions of this Act, for regulating procedure under this Act and for prescribing the fees to be paid in respect of proceedings thereunder; and generally for prescribing anything which by this Act is to be prescribed:

Provided that the fees contained in the Schedule to this Act shall be the prescribed fees until altered, amended, revoked or added to by general rules as herein before provided.

13. Register of Trade Marks to be kept
The Registrar shall keep in his office a book, to be called the "Register of Trade Marks", in which he shall register the particulars of any documents filed showing the number, nature and date thereof and the name of the registered proprietor or parties thereto. Such Register and all documents relating to entries therein which may have been duly filed, shall be open to the inspection of any person during office hours on payment of the prescribed fee.

14. Entry in Register of renewals of United Kingdom registrations
If the registration in the United Kingdom of a trade mark registered under this Act is renewed, the registered proprietor may, within such time after the date of renewal in the United Kingdom as may be prescribed, notify the registrar, who shall then, on sufficient evidence thereof and on payment of the prescribed fee, renew the registration in the Register in the

prescribed manner. If the registration in the Register is not renewed, it shall be cancelled by the Registrar.

15. Alteration of Register

The Registrar may, on request in writing made by the registered proprietor and on payment of the prescribed fee –

(a) cancel the registration of a trade mark or of a registered user thereunder either wholly or as regards any particular goods in respect of which the trade mark or registered user is registered;

(b) correct any clerical error in, or in connection with, any application under this Act or in any matter which is entered in the Register;

(c) enter in the Register any change in the name, description or address of the person who is registered as proprietor or user of a trade mark.

16. Entry in Register or certified copy to be admissible in evidence

Any entry in the Register or any certified copy thereof or of any document duly filed signed by the Registrar and given under his hand and seal, shall be admitted in evidence in any court and in all proceedings without further proof.

SCHEDULE

(section 12)

The fees specified in the second column hereunder shall be payable in respect of the proceedings specified in the first column in relation thereto.

Proceedings	***Fee US$***
On filing application for registration with documents specified in section 3 and making entry in Register of Trade Marks and issuing Certificate of Registration	250.00
On filing application for registration with documents specified in section 3 and making entry in Register of Trade Marks and issuing Certificate of Registration in respect of multiple classes	250.00
On any inspection of any document filed or any entry in the Register of Trade Marks or both for each class	25.00
On registering any assignment, etc., under section 9	100.00
On registering any renewal of United Kingdom registration under section 14	250.00
On registering any alteration in respect of name, address or user under section 15	100.00
On any certified copy or extract from the Register of Trade Marks for each class	20.00
On filing any document not otherwise provided for	20.00
On supplying copy of any document for every page (subject to a minimum of US$10.00)	2.00
On certifying any such copy	50.00

Table of Amendments (since the Revised Edition 1988)

Schedule *Amended by unnumbered Order pub. Gaz. 8 of 2006*