

LEGAL NOTICE No. 41

THE TRADE MARKS (AMENDMENT) ACT, 1994

(No. 5 of 1994)

COMMENCEMENT

IN EXERCISE of the powers conferred by section 1 of the Trade Marks (Amendment) Act, 1994, the Minister for Research, Technical Training and Technology appoints 1st March, 1995, as the date on which the Act comes into operation.

Dated the 27th January, 1995.

Z. T. ONYONKA,

*Minister for Research, Technical
Training and Technology.*

LEGAL NOTICE No. 42

THE TRADE MARKS ACT

(Cap. 506)

IN EXERCISE of the powers conferred by section 41 of the Trade Marks Act, the Minister for Research, Technical Training and Technology makes the following Rules:—

THE TRADE MARKS (AMENDMENT) RULES, 1995

Citation and
commencement.

1. These Rules may be cited as the Trade Marks (Amendment) Rules, 1995, and shall come into operation on the 1st March, 1995.

Amendment of
the principal
Rules.

2. Rule 2 of the Trade Marks Rules in these Rules referred to as the "principal Rules" is amended by deleting the definitions of "agent" and "specification" and inserting the following new definitions respectively—

(Cap. 16).

"agent" means an advocate as defined in the Advocates Act;

"specification" means the designation of goods or classes of goods or the description of services or classes of services in respect of which a trade mark, or a registered user of a trade mark, is registered or proposed to be registered.

Replacement
of rule 5 of the
principal
Rules.

3. Rule 5 of the principal Rules is replaced by the following—

Classi-
fication of
goods and
services.

5 (1) For the purposes of trade marks registrations dated before the appointed day, and of registrations of registered users thereunder, goods are classified in the manner appearing in the Second

Schedule, unless any specification has been converted to Part I of the Third Schedule in accordance with rule 6.

(2) For the purposes of trade marks registrations dated on or after the appointed day, and of registrations of registered users thereunder, and for the purposes of any registration dated before that day whereof the specifications have been converted in accordance with rule 6, goods are classified in the manner appearing in Part I of the Third Schedule.

(3) For the purposes of service marks registrations, services are classified in accordance with Part II of the Third Schedule.

4. The principal Rules are amended by deleting the heading appearing before rule 6, and inserting the following new heading—

Amendment of principal Rules.

“Application for Conversion of Specifications”

5. Rule 9 of the principal Rules is replaced by the following—

Replacement of Rule 9 of the principal Rules.

Size etc of documents.

9. Subject to any other directions that may be given by the Registrar, all applications, notices, counter-statements, papers having representations affixed or other documents authorized or required by the Act or these Rules to be made, left or sent, at or to the office or with or to the Registrar or the court, shall be on strong non-absorbent paper of a size approximately 297 mm. by approximately 210 mm., and shall have on the left hand part thereof a margin of not less than 35 mm.

6. Rule 19 of the principal Rules is replaced by the following—

Replacement of Rule 19 of the principal Rules.

Name and description of goods or services on a trade mark.

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

(2) Where the name or description of any goods or the name or description of any services appears on a trade mark, and the name or description in use varies, the Registrar may permit the registration of the mark for these and other goods or services, as the case may be, 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 or services covered by the specification other than the named or described goods or services.

Amendment of
Rule 20 of the
principal Rules.

7. Rule 20 of the principal Rules is amended in paragraph (1) by inserting after the word "goods" wherever it occurs the words "or services".

Amendment of
Rule 21 of the
principal Rules.

8. Rule 21 of the principal Rules is amended—

(a) in paragraph (1) by deleting the words "in one class only of the Third Schedule" in the seventh line and inserting the words "or services, as the case may be, in only one class specified in the case of goods in Part I of the Third Schedule and in the case of services in Part II of that Schedule"; and

(b) in paragraph (3) by inserting after the word "goods" wherever it occurs the words "or services".

Amendment of
Rule 25 of the
principal Rules.

9. Rule 25 of the principal Rules is amended by inserting after the word "goods" wherever it occurs the words "or services".

Replacement of
Rule 30 of the
principal Rules.

10. Rule 30 of the principal Rules is replaced by the following—

Search.

30. Upon receipt of an application for the registration of a trade mark in respect of any goods or services, as the case may be, the Registrar shall cause a search to be made amongst the registered marks and pending applications for the purpose of ascertaining whether—

(a) in the case of an application relating to goods, there are on record for the same goods or for the same description of goods or for services or a description of services associated with the goods or goods of that description; or

(b) the case of application relating to services, there are on record for the same services or for the same description of services or for goods or a description of goods associated with the services of that description;

any marks identical with the mark applied for, or which so nearly resemble 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.

Amendment of
Rule 32 of the
principal Rules.

11. Rule 32 of the principal Rules is amended by deleting the words "two months" in the second line and inserting the words "three months from the date of the communication".

12. Rule 33 of the principal Rules is amended—
 - (a) in paragraph (1) by deleting the words “one month” in the fifth line and inserting the words “three months”; and
 - (b) in paragraph (2) by deleting the word “forthwith” in the second line and inserting the words “within one month from the date of receipt of the Registrar’s communication”.

Amendment of Rule 33 of the principal Rules.
13. Rule 34 of the principal Rules is amended by inserting in paragraph (1) after the words “within one month” in the sixth line the words “from the date of receipt of the decision”.

Amendment of Rule 34 of the principal Rules.
14. Rule 60 of the principal Rules is amended by inserting after the word “goods” in the second line the words “or services”.

Amendment of Rule 60 of the principal Rules.
15. Rule 76 of the principal Rules is amended—
 - (a) in paragraph (1) by inserting after the word “goods” in the third line the words “or services”; and
 - (b) in subparagraph (a) of paragraph (1) by inserting after the words “goods” in the fifth line the words “or services, as the case may be”.

Amendment of Rule 76 of the principal Rules.
16. Rule 77 of the principal Rules is amended by inserting after the word “goods” in the third line the words “or services”.

Amendment of Rule 77 of the principal Rules.
17. Rule 78 of the principal Rules is amended by inserting after the word “goods” in the second line the words “or services”.

Amendment of Rule 78 of the principal Rules.
18. Rule 85 of the principal Rules is amended in paragraph (1) by deleting the word “goods” in the third line and inserting the words “any goods or services or classes of goods or services”.

Amendment of Rule 85 of the principal Rules.
19. Rule 101 of the principal Rules is amended in paragraph (3) by inserting after the word “goods” in the first line the words “or services”.

Amendment of Rule 101 of the principal Rules.
20. Rule 114 of the principal Rules is amended in paragraph (1) by inserting after the word “goods” in the second line the words “or services”.

Amendment of Rule 114 of the principal Rules.
21. Rule 115 of the principal Rules is amended by inserting after the words “inclusive of” in the second line the words “Part I of”.

Amendment of Rule 115 of the principal Rules.
22. Rule 116 of the principal Rules is amended by inserting after the figure “21” in the third line the words “of Part I”.

Amendment of Rule 116 of the principal Rules.

Amendment of
Third Schedule
to the principal
Rules.

23. The Third Schedule to the principal Rules is amended—

(a) by deleting the words “CLASSIFICATION OF GOODS” and inserting the following—

“PART I—CLASSIFICATION OF GOODS”; and

(b) by inserting immediately after item 34 the following new Part—

“PART II—CLASSIFICATION OF SERVICES

35. Advertising and business

36. Insurance and financial

37. Construction and repair

38. Communication

39. Transportation and storage

40. Medical treatment

41. Education and entertainment

42. Other services”.

Made on the 27th January, 1995.

Z. T. ONYONKA,
*Minister for Research, Technical
Training and Technology.*