

CAYMAN ISLANDS



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**THE TRADE MARKS LAW, 2016  
(LAW 31 OF 2016)**

**THE TRADE MARKS REGULATIONS, 2017**



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CAYMAN ISLANDS

**THE TRADE MARKS LAW, 2016  
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**THE TRADE MARKS REGULATIONS, 2017**

In exercise of the powers conferred by section 70 of the Trade Marks Law, 2016 (Law 31 of 2016), the Cabinet makes the following Regulations -

**PART 1 - INTRODUCTORY**

1. (1) These Regulations may be cited as the Trade Marks Regulations, 2017. Citation

(2) These Regulations shall come into force immediately after the coming into force of the Trade Marks Law, 2016.

2. (1) In these regulations - Definitions

“agent” means a registered agent;

“Gazette” means the Cayman Islands Gazette (Intellectual Property) published from time to time;

“Nice Agreement” means the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration Marks of 15<sup>th</sup> June 1957 as amendment from time to time;

“Nice Classification” means the system of classification under the Nice Agreement as varies from time to time;

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

“statement of truth” means a statement that the person producing the document that includes the statement believes the matters stated as facts in the document to be true.

(2) In these regulations, a reference to the filing of an application, notice or other document, unless the contrary intention appears, is to be construed as a reference to it being delivered to the Registrar.

Fees  
Schedule 1

3. Fees shall be the fees set out in Schedule 1 and shall accompany the relevant form.

Forms and directions of  
the Registrar  
Schedule 2

4. Any forms referred to in these regulations and set out in Schedule 2 may be modified in such a manner as the Registrar may direct to meet such cases as may be specified.

Delivery of documents  
by post and courier

5. (1) An application, notice or other document authorised or required by the Law to be sent to the Registrar may be sent by post or courier.

(2) It is sufficient proof of delivery to show that the application, notice or other document was properly addressed and sent by post or courier.

Delivery of documents  
by electronic means

6. (1) The Registrar may permit, as an alternative to sending by post or courier, the filing of the application, notice or other document by electronic means subject to such conditions as the Registrar may specify by way of -

- (a) notice published in the Gazette; or
- (b) written notice to a specific person who wishes to file an application, notice or other document by electronic means.

(2) The Registrar may permit, as an alternative to sending by post or delivery of the application, notice, or other document in legible form the filing of the application, notice or other document by electronic means subject to such terms and conditions as the Registrar may specify, either by notice published in the Gazette or, in a particular case, by written notice to the person desiring to file any such documents by such means.

(2003 Revision)

(3) Where regulation (2) applies, delivery of the application, notice, or other document in legible form may be satisfied by delivery of it in the form of an electronic record subject to section 8 of the Electronic Transactions Law (2003 Revision).

(4) The Registrar may deliver a document to a person in the form of an electronic record subject to section 8 of the Electronic Transactions Law (2003 Revision).

(5) Where an electronic record is transmitted by electronic means, the time at which it is sent and received shall be in accordance with section 17 of the Electronic Transactions Law (2003 Revision).

(6) In this regulation, “electronic” and “electronic record” have the same meaning as in section 2 of the Electronic Transactions Law (2003 Revision).

7. (1) The Registrar shall extend any time limit in these regulations where the Registrar is satisfied that the failure to act in accordance with the Law was wholly or mainly attributed to a delay in, or failure of, a communication service.

Delay in communication service

(2) Any extension under paragraph (1) shall be -

- (a) made after giving the parties such notice; and
- (b) subject to such conditions,

as the Registrar may direct.

(3) For the purpose of this regulation, “communication service” means a service by which documents may be sent and delivered and includes post, facsimile, email and courier.

8. Where any person is bound to furnish the Registrar with an address, such address shall be sufficient in all respects to enable the delivery of any document to that person.

Address

9. For the purposes of any proceedings, the address for service shall be the address of the agent appointed under section 60(1) of the Law.

Address for service

10. (1) Except as otherwise required by these Regulations, any application, request or notice which is required or permitted by the Law or these Regulations to be made or given to the Registrar and all other communications between an applicant or a person making such a request or giving such a notice and the Registrar or any other person, shall be signed, made or given by an agent authorised under section 60(1) of the Law.

Registered agents

(2) Where a person appoints an agent for the first time or appoints one agent in substitution for another, such appointed agent shall file the relevant form in Schedule 2 on the condition that, in the case of a substitution of one agent for another, the newly appointed agent shall also notify the previously appointed agent of the appointment.

(3) In the event of an appointment under paragraph (2), service upon the agent of any document relating to the matter shall be deemed to be service upon the principal, and all communications directed to be made to the principal in respect of the matter may be addressed to the registered agent, and all attendance before the Registrar relating thereto may be made through such agent.

(4) A request to be licensed by the Registrar as a registered agent shall be filed on the relevant form in Schedule 2 and accompanied by the relevant fee set out in Schedule 1.

(5) In respect of any transaction, the Registrar may refuse to recognise as agent -

- (a) an individual whose name has been erased from and not restored to, or who is suspended from, the Register of trade mark agents on the ground of misconduct;
- (b) a person who is found by the Grand Court to have been guilty of such conduct as would, in the case of an individual registered in that Register, render that person liable to have their name erased from it on the ground of misconduct; or
- (c) a partnership or body corporate of which one of the partners or directors is a person whom the Registrar could refuse to recognise under paragraph (a) or (b).

(6) A registered agent shall pay the annual fee as set out in Schedule 1.

(7) If the annual fee and penalty are not paid by 31st December the Registrar may remove the name of the registered agent from the register of agents.

(8) A registered agent who defaults in paying the annual fee shall incur a penalty of -

- (a) 33.33 per cent of the annual fee specified in Schedule 1 if the fee and penalty are paid between 1<sup>st</sup> April and 30<sup>th</sup> June;
- (b) 66.67 per cent of the annual fee specified in Schedule 1 if the fee and penalty are paid between 1<sup>st</sup> July and the 30<sup>th</sup> September; and
- (c) 100 per cent of the annual fee specified in Schedule 1 if the fee and penalty are paid between the 1st October and the 31st December.

Removal of registered agent

11. (1) An application to be removed as the registered agent of a proprietor shall be made on the form set out in Schedule 2 and accompanied by the fee.

(2) The Registrar shall inform the respective proprietor of any application for removal as registered agent.

(3) Where a trade mark is scheduled to be removed from the Register for failure of the proprietor to appoint an agent, the Registrar shall cause this fact to be published by way of the Gazette.

**PART 2 - REGISTRABLE TRADE MARKS**

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

Unacceptable applications

- (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; or
- (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 referred to in paragraphs (1)(c) or (d), 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.

13. The following features shall not appear on a trade mark for which an application for registration is made, unless it appears to the Registrar that consent has been given by or on behalf of the respective Government or international organisation -

Prohibited material

- (a) representations of the Royal or Imperial Arms, or the Arms of the Cayman Islands, crests, armorial bearings or insignia, the Coat of Arms of any state or other division of any country or territory of any country 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, insignia of Royalty and International Organisations, or the Royal, Imperial or National flags or of the flag of the Cayman 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.

Representation of actual person 14. Where the name or representation of any person appears on a trade mark, the Registrar shall before proceeding to register the mark, be furnished with consent from the person or, in the case of a person deceased, from the legal representative, and in default of such consent the Registrar shall refuse to register the mark.

### **PART 3 - PROCEDURE ON APPLICATION FOR REGISTRATION**

Classification of goods and services 15. (1) The prescribed system of classification for the purposes of the registration of trade marks is the Nice Classification.

(2) When a trade mark is registered it shall be classified according to the version of the Nice Classification that was in effect on the date of the application for registration.

Application for registration 16. (1) An application to the Registrar for the registration of a trade mark shall be filed on the relevant form in Schedule 2 signed by the applicant or the registered agent.

(2) An application for registration shall be for the registration of the trade mark in respect of goods or services in one or more classes in accordance with the Nice Classification and shall specify -

- (a) the class or classes of goods or services to which the application relates; and
- (b) a clear description, appropriate to the respective class, of the goods or services in respect of which the trade mark is proposed to be registered.

(3) If the application relates to more than one class in the Nice Classification, the specification contained in it shall set out the classes in consecutive numerical order and the specification of the goods or services shall be grouped accordingly.

(4) If the specification contained within the application lists the goods or services item by reference to a class in the Nice Classification in which it does not fall, the applicant may request, by filing the relevant form in Schedule 2 that the application be amended to include the appropriate class for the item, and upon the payment of the appropriate class fee the Registrar shall amend the application accordingly.

(5) In the case of an application for registration in respect of all the goods or services included in a class, or of a large variety of goods or services, the

Registrar may refuse to accept the application unless the Registrar 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.

(6) On receipt of the application the Registrar shall furnish the applicant with an acknowledgment therefor.

17. (1) The representation included with an application for registration of a trade mark shall depict the trade mark clearly and in sufficient detail to permit a proper examination to be made of the trade mark and shall be of a kind and quality that is suitable for reproduction and registration.

Representation of mark;  
section 13(2)(f)

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

18. (1) The Registrar may require, where a drawing or other representation or specimen cannot be given in the manner referred to in regulation 17, a specimen copy of the trade mark to be sent either of full size or on a reduced scale, and in such form as the Registrar may think most convenient.

Specimens of trade  
marks in exceptional  
cases

(2) The Registrar may in exceptional cases, deposit in the Registry a specimen or copy of a trade mark which cannot conveniently be shown by a representation, and may refer to this specimen or copy in the Register in such manner as the Registrar may think fit.

19. (1) Where a trade mark contains a word or words in characters other than the characters in the Roman alphabet, there shall, unless the Registrar otherwise directs, be endorsed on the application form, 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 the agent.

Transliteration and  
translation

(2) Where a trade mark contains a word or words in a language other than English, the Registrar may ask for an accurate translation thereof together with the name of the language, and the translation shall be endorsed and signed by the registered agent.

#### **PART 4 - PROCEDURE ON RECEIPT OF APPLICATION**

20. (1) Upon receipt of an application for the registration of a trade mark in respect of any goods or services, the Registrar shall cause a search to be made of

Search

the registered marks and pending applications, for the purpose of ascertaining whether there are on record, in respect of the same goods or services or description of goods or services, any marks identical with the mark applied for, or so nearly resembling it so as to render the mark applied for likely to deceive or cause confusion.

(2) Where, following any search under paragraph (1) it appears to the Registrar that there may be relative grounds for refusal of the registration under section 25 of the Law, the Registrar shall notify this fact to -

- (a) the applicant's agent; and
- (b) the agent of the proprietor of the earlier right.

Acceptance: absolute or conditional

21. After 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, object to it, or may accept it subject to such conditions, amendments, disclaimer, modifications or limitations as the Registrar may determine in accordance with section 33 of the Law.

Registrar's objections

22. If the Registrar objects to the application, the Registrar shall inform the applicant of the objections in writing, and unless the applicant applies for a hearing or makes a reply in writing to those objections within sixty days of being notified, the applicant shall be deemed to have withdrawn the application.

Registrar's conditions

23. (1) If the Registrar is willing to accept the application subject to any conditions, amendments, disclaimer, modifications or limitations, the Registrar shall communicate this to the applicant in writing, and, if the applicant objects to such conditions, amendments, disclaimer, modifications or limitations, the applicant shall within sixty days of the date of the communication apply for a hearing or communicate considered objections in writing, and if the applicant does not do so the applicant shall be deemed to have withdrawn the application.

(2) If the applicant does not object to such conditions, amendments, disclaimer, modifications or limitations referred to in paragraph (1), the applicant shall within sixty days of the date of the communication, notify the Registrar in writing, and alter the application accordingly.

(3) Where an application for the registration of a trade mark is altered under paragraph (1), the publication fee under regulation 96 shall be payable by the applicant.

Decision of the Registrar

24. (1) The decision of the Registrar -

- (a) pursuant to the hearing under regulation 22 or 23; or

- (b) where the applicant has communicated the considered objections or reply in writing in accordance with regulation 23(1), and the reply has stated that there is no desire to be heard,

shall be communicated to the applicant in writing.

(2) The date on which the Registrar's decision is sent to the applicant shall be deemed to be the date of the Registrar's decision for the purpose of an appeal.

25. The Registrar may, where the trade mark contains words or devices that are descriptive of the goods or services applied for, direct the applicant to insert in an application such disclaimer as the Registrar may think fit, to make it clear -

Disclaimer

- (a) that the applicant does not claim an exclusive right to the descriptive word or device; and
- (b) the extent of the applicant's rights in relation to the descriptive word or device, if the mark is registered.

26. Notice of non-completion of an application to register a trade mark shall be given by the Registrar, pursuant to section 15(6) of the Law, to the applicant's agent.

Notice of non-completion

27. Where an application for registration is accepted and there is no representation of the trade mark included in the publication of the application, the Registrar shall refer in the Gazette to the place where a specimen or representation of the trade mark is deposited for exhibition.

Applications to be published in the Gazette

28. The Registrar shall send to the applicant a copy of any document containing observations made under section 16(4) of the Law within twenty-one days of receipt.

Observations on application to be sent to applicant

## PART 5 - OPPOSITION TO REGISTRATION

29. (1) Notice of opposition to the registration of the trade mark under sections 16(2) and (3) to which the publication relates, shall be given on the appropriate form set out in Schedule 2.

Notice of opposition

(2) 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 published shall be set out by the person giving notice.

30. (1) Within sixty days of the date on which the Registrar sends the notice of opposition the applicant shall send to the Registrar a counter-statement on the

Counter-statements

appropriate form in Schedule 2 setting out the grounds on which the applicant relies as supporting the application along with any facts alleged in the notice of opposition that are admitted.

(2) Where the applicant fails to file a counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall be deemed to be withdrawn unless the Registrar directs otherwise.

Copy of counter-statement to be sent to opponent

31. Upon receipt of the counter-statement, the Registrar shall immediately send a copy of the counter-statement to the opponent, and within ninety days of the date on which the Registrar sends the copy of the counter-statement the opponent shall submit to the Registrar such evidence by way of witness statement and any accompanying exhibits as the opponent may desire to adduce in support of the opposition, and shall deliver to the applicant a copy of such evidence.

Opponent submitting evidence

32. (1) If an opponent submits evidence within ninety days of the date on which the opponent sends a copy of the evidence to the applicant, the applicant shall submit to the Registrar such evidence by way of witness statement and any accompanying exhibits as the applicant may desire to adduce in support of the application, and shall deliver to the opponent a copy of such evidence.

(2) If an opponent does not submit evidence within the time set out in regulation 31, the Registrar shall notify the applicant of the failure to submit evidence.

(3) An applicant may, within ninety days of the date on which the Registrar sends notification that the opponent did not file evidence in support of the application, submit to the Registrar evidence by way of witness statement and any accompanying exhibits in support of the application and shall deliver to the opponent a copy of such evidence.

Reply by opponent

33. (1) Within ninety days of the date on which the applicant sends a copy of the evidence to the opponent, the opponent may file with the Registrar evidence by witness statement and any accompanying exhibits in reply, and shall deliver to the applicant a copy of the evidence.

(2) Evidence under paragraph (1) shall be confined to matters strictly in reply.

Notice of hearing

34. (1) Upon completion of the evidence rounds the Registrar shall give notice to the parties of a date when the arguments in the case will be heard.

(2) 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.

(3) Within seven days of the date on which the Registrar sends such notice in the appropriate form set out in Schedule 2 both parties shall notify the Registrar as to whether or not they wish to be heard and if neither party wishes to be heard the Registrar shall notify the parties and make a determination from the submissions.

(4) If either or both parties wish to be heard the Registrar shall re-confirm the hearing date.

35. (1) The Registrar shall not, under any circumstances, grant an extension of time for the filing of a notice of opposition or a counter-statement.

Extension of time in  
opposition proceedings

(2) The Registrar may choose, upon application supported by good reasons by either party, to grant any reasonable extension of time for opposition proceedings not mentioned in paragraph (1).

36. (1) Upon the joint application of the parties, the Registrar shall at any time after the counter-statement has been submitted, suspend the opposition proceedings for a period of up to twelve months.

Suspension of  
opposition proceedings

(2) A joint application under paragraph (1) is contingent on the parties trying to negotiate an amicable settlement and supported by a statement outlining -

- (a) the nature of the actions towards settlement taken in the period prior to the date of the application;
- (b) the progress made prior to the date of the application;
- (c) whether outstanding issues are merely minor issues of clarification or whether they represent potentially significant barriers to a resolution of the matter; and
- (d) when the parties expect the negotiations to be completed and the proceedings concluded.

(3) The Registrar will consider further joint applications to suspend the opposition proceedings made upon the expiry of the first granted suspension.

37. In any proceedings the Registrar may, by order, award to any party such costs as the Registrar may consider reasonable based on the costs set out in Schedule 3, and direct the manner and by whom the costs are to be paid.

Opposition: cost of  
proceedings  
Schedule 3

Notice of opposition:  
security for costs

38. (1) Where a party giving notice of opposition, or an applicant sending a counter-statement after receipt of a copy of such notice, does not reside nor carry on business in the Islands, the Registrar may require the agent acting for such party to give a written undertaking that the relevant principal will bear the costs of proceedings before the Registrar and at any stage in the opposition proceedings the Registrar may require further security to be given at any time before the decision in the case.

(2) The Appeals Tribunal may also require security for the costs of any appeal to the Appeals Tribunal from the Registrar's decision.

(3) Where a party fails to provide security in any proceedings before the Registrar, or in the case of an appeal, in any proceedings before the Tribunal, the Registrar, or the Tribunal, as the case may be, may treat the party in default as having withdrawn their opposition or counter-statement.

#### **PART 6 - ENTRY IN REGISTER, RENEWAL AND REGISTRABLE TRANSACTIONS**

Entry of trade mark

39. (1) As soon as may be practicable after the expiration of sixty days of the date of the publication in the Gazette of any application for the registration of a trade mark, the Registrar shall, subject to any opposition proceedings and the determination thereof, and in accordance with the provisions of section 18 of the Law enter the trade mark in the Register.

(2) The entry in the Register shall give the date of registration, the goods or services in respect of which it is registered, and all particulars specified in section 13(2) of the Law.

Certificate of registration

40. Upon the registration of a trade mark, the Registrar shall issue to the applicant a certificate of registration.

Renewal of registration

41. Renewal of registration shall be effected by filing an application for renewal on the relevant form in Schedule 2 at any time within the period of 6 months before the date of the expiration of the registration.

Late renewal of registration

42. (1) The late renewal of a registration shall be effected by filing an application for renewal on the relevant form in Schedule 2 at any time within the period of 6 months beginning on the date of the expiration of the registration.

(2) Where a request for renewal is not filed within the time period specified in paragraph (1), the Registrar shall remove the mark from the Register and publish its removal by way of notice in the Gazette.

43. Where the Registrar has removed the mark from the Register in accordance with regulation 42(2) the Registrar may, following receipt of an application filed on the relevant form in Schedule 2 and the respective fee, restore the mark to the Register and renew its registration.

Restoration of registration; section 20(8)(b)

44. (1) Upon the renewal, late renewal, or restoration and renewal, of a registration, a notice to that effect shall be sent to the registered proprietor, and the renewal, late renewal, or restoration and renewal, shall be published in the Gazette.

Gazette notice of renewal, late renewal and restoration and renewal

(2) Where any notice of a renewal under paragraph (1) is to be published in the Gazette, the publication fee in regulation 96 shall be payable by the registered proprietor.

45. Upon application made to the Registrar on the relevant form in Schedule 2 by such person as is mentioned in section 39(1)(a) or (b) of the Law there shall be entered in the Register in respect of each trade mark the following particulars of registrable transactions together with the date on which the entry is made -

Entry in the Register of particulars of registrable transactions

- (a) in the case of an assignment of a registered trade mark or any right in it -
  - (i) the name and address of the assignee;
  - (ii) the date of the assignment; and
  - (iii) where the assignment is in respect of any right in the mark, a description of the right assigned;
- (b) in the case of the grant of a licence under a registered trade mark-
  - (i) the name and address of the licensee;
  - (ii) where the licence is an exclusive licence, that fact;
  - (iii) where the licence is limited, a description of the limitation; and
  - (iv) the duration of the licence if the duration is for a definite period;
- (c) in the case of the grant of any security interest over a registered trade mark or any right in or under it -
  - (i) the name and address of the grantee;
  - (ii) the nature of the interest (whether fixed or floating); and
  - (iii) the extent of the security and the right in or under the mark secured;
- (d) in the case of the making by personal representatives of an assent in relation to a registered trade mark or any right in or under it -

- (i) the name and address of the person in whom the mark or any right in or under it vests by virtue of the assent; and
- (ii) the date of the assent;
- (e) in the case of a court or other competent authority transferring a registered trade mark or any right in or under it -
  - (i) the name and address of the transferee;
  - (ii) the date of the order; and
  - (iii) where the transfer is in respect of a right in the mark, a description of the right transferred;
- (f) in the case of any registered transmission by way of testamentary disposition or operation of law other than assignment -
  - (i) the name and address of the person and a description of the person claiming to be entitled (if a partnership, the full name of each of the partners);
  - (ii) a copy of the instrument under which the person claims; and
  - (iii) where the transfer is in respect of a right in the mark, a description of the right transferred; and
- (g) in the case of any amendment of the registered particulars relating to a licence under a registered trade mark or a security interest over a registered trade mark or any right in or under it, particulars to reflect such amendment.

Removal of matter from Register

46. (1) Where it appears to the Registrar that any matter in the Register has ceased to have effect, before removing it from the Register -

- (a) the Registrar may publish in the Gazette the fact that it is intended to remove that matter; and
- (b) where any person appears to the Registrar to be affected by the removal, notice of the intended removal shall be sent to that person.

(2) Within sixty days of the date on which the intention to remove the matter is published, or notice of the intended removal is sent, as the case may be -

- (a) any person may file notice of opposition to the removal on the relevant form in Schedule 2; and
- (b) the person to whom a notice is sent under paragraph (1)(b) may file objections in writing, if any, to the removal.

(3) If the Registrar is satisfied, after considering any objections or opposition to the removal, that the matter has not ceased to have effect then the Registrar shall not remove it.

(4) Where there has been no response to the Registrar's notice the Registrar may remove the matter.

(5) Where representations objecting to the removal of the matter have been made, the Registrar may remove it, or the appropriate part of it, if after considering the objections the Registrar is of the view that the matter, or any part of it, has ceased to have effect.

#### **PART 7 - SURRENDER, REVOCATION AND INVALIDITY**

47. (1) Subject to paragraph (2), the proprietor may surrender a registered trade mark in respect of all the goods or services for which it is registered or in respect only of those goods or services specified by the proprietor by sending notice to the Registrar on the relevant form in Schedule 2. Surrender

(2) A notice under paragraph (1) shall be of no effect unless the proprietor in that notice -

- (a) gives the name and address of any person having a registered interest in the mark; and
- (b) certifies that any such person -
  - (i) has been sent at least three months' notice of the proprietor's intention to surrender the mark; or
  - (ii) is not affected or, if affected, consents to the surrender.

(3) The Registrar shall, upon receiving the notice under paragraph (1), make the appropriate entry in the Register and publish the date of receipt of the surrender in the Gazette.

(4) The surrender takes effect from the date of publication in the Gazette.

48. (1) An application to the Registrar for revocation of a trade mark under section 44 of the Law, on the grounds set out in section 44(1)(a) or (b), shall be made on the relevant form in Schedule 2 and shall include a statement of the grounds on which the application is made and be accompanied by a statement of truth. Application for revocation

(2) The Registrar shall send a copy of the form referred to in paragraph (1) and the statement of the grounds on which the application is made to the proprietor.

49. (1) Within sixty days of the date on which the Registrar sends a copy of the form referred to in regulation 48(1) and the statement of the grounds to the proprietor, the proprietor shall send to the Registrar a counter-statement on the relevant form in Schedule 2 setting out the grounds on which the proprietor relies. Revocation: counter-statements

(2) If the Registrar does not receive a counter-statement, the Registrar may consider this as an indication that the proprietor is not contesting the application for revocation and the registration of the mark shall, unless the Registrar directs otherwise, be revoked.

(3) The Registrar shall send a copy of the counter-statement on the relevant form in Schedule 2 to the applicant.

Application for  
revocation: evidence  
rounds

50. Within ninety days of the date on which the Registrar sends the copy of the counter-statement, the applicant shall submit to the Registrar such evidence by way of witness statement and any accompanying exhibits as the applicant may desire to adduce in support of the application for revocation, and shall deliver to the proprietor a copy of such evidence.

Proprietor submitting  
evidence

51. (1) If the applicant submits evidence in accordance with regulation 50, within ninety days of the date on which the applicant sends a copy of the evidence to the proprietor, the proprietor shall submit to the Registrar such evidence by way of witness statement and any accompanying exhibits as the proprietor may desire, and shall deliver to the applicant a copy of such evidence.

(2) If an applicant does not submit evidence within the time-frame prescribed under regulation 50 the applicant, shall, unless the Registrar otherwise directs, be deemed to have withdrawn the application.

(3) The Registrar shall notify the proprietor of any direction given under paragraph (2).

Application for  
revocation: reply

52. Within ninety days of the date on which the proprietor sends a copy of the evidence to the applicant, the applicant may file to the Registrar evidence by witness statement and any accompanying exhibits in reply, and shall deliver to the proprietor a copy of the evidence, such evidence being confined to matters strictly in reply.

Notice of hearing

53. (1) Upon completion of the evidence rounds the Registrar shall give notice to the parties of a date when the arguments in the case are scheduled to be heard.

(2) The hearing shall be scheduled for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice.

(3) Within seven days of the date on which the Registrar sends such notice both parties shall notify the Registrar as to whether or not they wish to be heard.

(4) If neither party wishes to be heard the Registrar shall notify the parties of that and proceed to make a decision from the submissions.

(5) If either or both parties wish to be heard the Registrar shall re-confirm the hearing date.

54. (1) The Registrar shall under no circumstances grant an extension of time for the filing of a counter-statement.

Extension of time in  
revocation proceedings

(2) The Registrar may choose, upon application supported by good reasons by either party, to grant any reasonable extension of time subject to paragraph (1).

55. (1) Upon the joint application of the parties, the Registrar shall at any time after the counter-statement has been submitted, suspend the revocation proceedings for a period of up to twelve months.

Suspension of  
revocation proceedings

(2) The joint application shall be requested on the basis that the parties are trying to negotiate an amicable settlement and supported by a statement outlining -

- (a) the nature of the actions towards settlement taken in the period prior to the date of the application;
- (b) the progress made prior to the date of the application;
- (c) whether outstanding issues are merely minor issues of clarification or whether they represent potentially significant barriers to a resolution of the matter; and
- (d) when the parties expect the negotiations to be completed and the proceedings concluded.

(3) The Registrar will consider further joint applications to suspend the revocation proceedings made upon the expiry of the first granted suspension.

56. In any proceedings, the Registrar may, by order, award to any party such costs as the Registrar may consider reasonable based on the costs set out in Schedule 3, and direct how and by what parties they are to be paid.

Revocation: costs of  
proceedings

57. (1) Where a party filing an application for revocation, or a proprietor sending a counter-statement after receipt of a copy of such application, neither resides nor carries on business in the Islands, the Registrar may require the agent acting for and on behalf of such party to give a written guarantee that such party will bear the costs of proceedings before the Registrar and at any stage in the revocation proceedings the Registrar may require further security to be given at any time before the decision in the case.

Application for  
revocation: security for  
costs

(2) The Registrar may also require security for the costs of any appeal to the Court from the Registrar's decision.

(3) In default of such security being given, the Registrar, in the case of the proceedings before the Registrar, or in the case of an Appeal, the Appeals Tribunal under section 58 of the Law may treat the party in default as having withdrawn their application for revocation or counter-statement, as the case may be.

Application for  
invalidation; section 45

58. (1) An application to the Registrar for a declaration of invalidity of a trade mark under section 45 of the Law shall be made on the relevant form in Schedule 2 and shall include a statement of the grounds on which the application is made and be accompanied by a statement of truth.

(2) Where the application is based on a trade mark which has been registered, there shall be included in the statement of the grounds on which the application is made, a representation of that mark and -

- (a) the details of the authority with which the mark is registered;
- (b) the registration number of that mark; and
- (c) the goods and services in respect of which -
  - (i) that mark is registered; and
  - (ii) the application is based.

(3) Where the application is based on a trade mark in respect of which an application for registration has been made, there shall be included in the statement of the grounds on which the application is made a representation of that mark and those matters set out in paragraph (2)(a) through (c), with references to registration being construed as references to the application for registration.

(4) Where the application is based on an unregistered mark or other sign which the applicant claims to be protected by virtue of the law of passing off or any other law, there shall be included in the statement of the grounds on which the application is made a representation of that mark or sign and the goods and services in respect of which such protection is claimed.

(5) The Registrar shall send a copy of the form referenced in paragraph (1) and the statement of the grounds on which the application for a declaration of invalidity is made to the proprietor.

Invalidity: counter-  
statements

59. (1) Within sixty days of the date on which the Registrar sends to the proprietor a copy of the form referred to in regulation 58(1) and the statement of the grounds, the proprietor shall file with the Registrar a counter-statement on the relevant form in Schedule 2 setting out the grounds on which the proprietor relies.

(2) Where the proprietor does not file a counter-statement, the Registrar may treat the proprietor as not contesting the application for a declaration of invalidity and the registration of the mark shall, unless the Registrar directs otherwise, be invalidated.

(3) The Registrar shall send a copy of the counter-statement on the relevant form in Schedule 2 to the applicant.

60. Within ninety days of the date on which the Registrar sends the copy of the counter-statement, the applicant shall submit to the Registrar such evidence by way of witness statement and any accompanying exhibits as desired to adduce in support of the application for a declaration of invalidity, and shall deliver to the proprietor a copy of such evidence.

Application for a declaration of invalidity: evidence rounds

61. (1) If the applicant submits evidence then within ninety days of the date on which the applicant sends a copy of the evidence to the proprietor, the proprietor shall submit to the Registrar such evidence by way of witness statement and any accompanying exhibits desired, and shall deliver to the applicant a copy of such evidence.

Proprietor to submit evidence

(2) If an applicant does not submit evidence within the time-frame prescribed under regulation 60 the applicant shall, unless the Registrar otherwise directs, be deemed to have withdrawn the application.

(3) The Registrar shall notify the proprietor of any direction given under paragraph (2).

62. Within ninety days of the date on which the proprietor sends a copy of the evidence to the applicant the applicant may file with the Registrar evidence by witness statement and any accompanying exhibits in reply, and shall deliver to the proprietor a copy of the evidence, such evidence being confined to matters strictly in reply.

Declaration of invalidity:reply

63. (1) Upon completion of the evidence rounds, the Registrar shall give notice to the parties of the date for the hearing of the arguments.

Notice of hearing

(2) The date for the hearing under paragraph (1) shall be at least fourteen days after the date of the notice, unless the parties consent to a shorter notice.

(3) Within seven days of the date on which the Registrar sends the notice both parties shall notify the Registrar as to whether or not they wish to be heard.

(4) If neither party wishes to be heard the Registrar shall notify the parties of that and proceed to make a decision from the submissions.

(5) If either or both parties wish to be heard the Registrar shall re-confirm the hearing date.

Extension of time in  
invalidation  
proceedings; section  
70(1)(f)

64. (1) The Registrar shall not grant an extension of time under any circumstances for the filing of a counter-statement.

(2) The Registrar may choose, upon application supported by good reasons by either party to grant any reasonable extension of time for proceedings not mentioned in paragraph (1).

Suspension of  
invalidation proceedings

65. (1) Upon the joint application of the parties, the Registrar shall at any time after the counter-statement has been submitted, suspend the invalidation proceedings for a period of up to twelve months.

(2) The application shall be requested on the basis that the parties are trying to negotiate an amicable settlement and supported by a statement outlining -

- (a) the nature of the actions towards settlement taken in the period prior to the date of the application;
- (b) the progress made prior to the date of the application;
- (c) whether outstanding issues are merely minor issues of clarification or whether they represent potentially significant barriers to a resolution of the matter; and
- (d) when the parties expect the negotiations to be completed and the proceedings concluded.

(3) The Registrar shall consider further joint applications to suspend the invalidation proceedings made upon the expiry of the first granted suspension.

Invalidation: costs of  
proceedings

66. In any proceedings, the Registrar may by order award to any party such costs as the Registrar may consider reasonable, based on the costs set out in Schedule 3, and direct the manner and the date by which the costs are to be paid.

Declaration of  
invalidity: security for  
costs

67. (1) Where a party filing an application for a declaration of invalidity, or a proprietor sending a counter-statement after receipt of a copy of such application, neither resides nor carries on business in the Islands, the Registrar may require the agent acting for and on behalf of such party to give a written guarantee that such party will bear the costs of proceedings before the Registrar and at any stage in the invalidity proceedings may require further security to be given at any time before the Registrar's decision in the case.

(2) The Registrar may also require security for the costs of any appeal to the Appeals Tribunal from the Registrar's decision.

(3) In default of such security being given, the Registrar, in the case of the proceedings before the Registrar, or in the case of an Appeal, the Appeals Tribunal may treat the party in default as having withdrawn their application for a declaration of invalidity or counter-statement, as the case may be.

## **PART 8 - COLLECTIVE AND CERTIFICATION MARKS**

68. Where an application for registration of a collective or certification mark is filed, the applicant shall, within such period of not less than three months file the relevant form in Schedule 2 accompanied by a copy of the regulations governing the use of the mark.

Filing of regulations for collective and certification marks; Schedules 1 and 2 of the Law

69. (1) An application for the amendment of the regulations governing the use of a registered collective or certification mark shall be filed on the relevant form in Schedule 2.

Amendment of regulations of collective and certification marks; Schedule 1 and Schedule 2 of the Law

(2) Where it appears to be expedient to the Registrar that the amended regulations should be made available to the public the Registrar shall publish a notice in the Gazette indicating where copies of the amended regulations may be inspected.

(3) Any person may, within two months of the date of publication of the notice under paragraph (2), make observations to the Registrar on the amendments relating to the matters referred to in paragraph 6(1) of Schedule 1 to the Law in relation to a collective mark, or paragraph 7(1) of Schedule 2 to the Law in relation to a certification mark and the Registrar shall send a copy of those observations to the proprietor's registered agent.

(4) Any person may, within two months of the date on which the notice was published under paragraph (2), give notice to the Registrar of opposition to the amendment on the relevant form in Schedule 2 which shall include a statement of the grounds of opposition indicating why the amended regulations do not comply with the requirements of paragraph 6(1) of Schedule 1 to the Law, or, paragraph 7(1) of Schedule 2 to the Law, as the case may be.

(5) The Registrar shall send a copy of the form referred to in paragraph (4) to the proprietor and the procedure in regulations 29 to 38 shall apply to the proceedings relating to the opposition to the amendment as they apply to proceedings relating to opposition to an application for registration with the following modifications -

- (a) any reference to the applicant shall be construed as a reference to the proprietor;
  - (b) any reference to an application for registration shall be construed as a reference to an application for the amendment of the regulations; and
  - (c) any reference to the person opposing the registration shall be construed as a reference to the person opposing the amendment of the regulations.
- (6) Where an application is made under paragraph (1), the publication fee under paragraph 96 is payable by the applicant.

## **PART 9 - THE REGISTER**

Public inspection of Register; section 6(3)

70. (1) The Register shall be open for public inspection at the Registry during its hours of business.

(2) Where any portion of the Register is kept otherwise than in documentary form, the right of inspection is a right to inspect the material on the Register.

Supply of certified copies etc.; section 6(3)

71. The Registrar shall supply a certified copy or extract or uncertified copy or extract of any entry in the Register as may be requested by any person on the relevant form in Schedule 2 and on the payment of the relevant fee.

Request for change of name or address in Register

72. The Registrar shall, on a request made on the relevant form in Schedule 2 by the proprietor of a registered trade mark or a licensee or any person having an interest in or charge on a registered trade mark which has been registered (“the applicant”), enter a change in the applicant’s name or address as recorded in the Register.

Removal of matter from Register; sections 39(5)(b) and 9(4)

73. (1) Where it appears to the Registrar that any matter in the Register has ceased to have effect, before removing it from the Register -

- (a) the Registrar may publish in the Gazette the fact that it is intended to remove that matter; and
- (b) where any person appears to the Registrar to be affected by the removal, notice of the intended removal shall be sent to that person.

(2) Within sixty days of the date on which the intention to remove the matter is published, or notice of the intended removal is sent, whichever is later in time -

- (a) any person may file notice of opposition to the removal on the relevant form in Schedule 2; and

- (b) the person to whom a notice is sent under paragraph (1)(a) may file written objections, if any, to the removal, and where such opposition or objections are made, regulation 29 shall apply.

(3) If, after considering any objections or opposition to the removal, the Registrar is satisfied that the matter has not ceased to have effect, the Registrar shall not remove it.

(4) Where there has been no response to the Registrar's notice the Registrar may remove the matter and where representations objecting to the removal of the entry have been made the Registrar may, if after considering the objections the Registrar is of the view that the entry or any part of it has ceased to have effect, remove it or the appropriate part of it.

74. (1) Where a document (other than a form required by the Registrar) is filed at the Registry and the person filing it requests at the time of filing that it or a specified part of it be treated as confidential and gives reasons for the request, the Registrar may direct that it or part of it, as the case may be, be treated as confidential, and the document shall not be open to public inspection while the matter is being determined by the Registrar.

Confidential documents

(2) Where such direction has been given and not withdrawn, nothing in this regulation shall be taken to authorise or require any person to be allowed to inspect the document, or any part of it to which the direction relates, except by leave of the Registrar.

(3) The Registrar shall not withdraw any direction given under this regulation without prior consultation with the person at whose request the direction was given, unless the Registrar is satisfied that such prior consultation is not reasonably practicable.

(4) The Registrar may, where the Registrar considers that any document issued by the Registrar should be treated as confidential, so direct, and upon such direction that document shall not be open to public inspection except by leave of the Registrar.

(5) Where a direction is given under this regulation for a document to be treated as confidential a record of the fact shall be filed with the document.

75. An application in accordance with section 34 of the Law should be made on the relevant form in Schedule 2.

Information about application and registered trade marks; section 34

- Procedure on application for rectification or correction of the Register; section 9
76. (1) An application for rectification of an error or omission in the Register under section 9(1) of the Law shall be made on the relevant form in Schedule 2 together with -
- (a) a statement of the grounds on which the application is made; and
  - (b) any evidence to support those grounds.
- (2) Where any application is made under paragraph (1) by a person other than the respective registered agent, the Registrar -
- (a) shall send a copy of the application and the statement, together with any evidence filed, to the proprietor's registered agent; and
  - (b) may give such direction with regard to the filing of subsequent evidence and upon such terms as the Registrar thinks fit.
- Withdrawal, restriction or amendment application; section 17
77. (1) An application to the Registrar for the withdrawal, restriction or amendment may be made by a registered agent of the applicant, such applications being made on the relevant form in Schedule 2.
- (2) Where, pursuant to section 17 of the Law, a request is made for amendment of an application which has been published in the Gazette the amendment or a statement of the effect of the amendment shall also be published in the Gazette.
- (3) Where an application for the amendment of a trade mark is published under paragraph (2), the publication fee under regulation 96 is payable by the applicant.

#### **PART 10 - THE REGISTRAR**

- Applications to the Court: service on the Registrar
78. Every application made to the Court under the Law shall be served on the Registrar.
- Copy of Court order for Registrar
79. Where an order has been made by the Court, the person in whose favour the order has been made (or, where there is more than one person, such persons as the Registrar may direct) shall forthwith file with the Registrar a copy of such order and the Register may thereupon be rectified or altered by the Registrar if the Registrar considers it necessary.
- Registrar may publish Court order
80. Whenever an order is made by the Court, the Registrar may, if the Registrar is of the opinion that the order is of sufficient public interest, publish it in the Gazette.
- General powers of Registrar in relation to proceedings
81. (1) Except where the Law or these regulations otherwise provide, the Registrar may give such directions as to the management of any proceedings as the Registrar thinks fit, and may -

- (a) require a document, information or evidence to be filed within such period as the Registrar may specify;
  - (b) require a translation of any document;
  - (c) require a party or a party's legal representative to attend a hearing;
  - (d) hold a hearing by telephone or by using any other method of direct oral communication;
  - (e) allow a submission to be amended;
  - (f) stay the whole, or any part, of the proceedings either generally or until a specified date or event;
  - (g) consolidate proceedings;
  - (h) direct that part of any proceedings be dealt with as separate proceedings; or
  - (i) exclude any evidence which the Registrar considers to be inadmissible.
- (2) The Registrar may control the evidence by giving directions as to -
- (a) the issues on which evidence is required; and
  - (b) the way in which the evidence is to be placed before the Registrar.
- (3) When the Registrar gives directions under any provision of these regulations, the Registrar may -
- (a) make them subject to conditions; and
  - (b) specify the consequences of failure to comply with the directions or a condition.
- (4) The Registrar may at any stage of any proceedings direct that the parties to the proceedings attend a case management conference or pre-hearing review.

82. (1) Where any document or part thereof which is in a language other than English is filed, the Registrar may require that there be furnished a translation into English of the document or a part, verified to the satisfaction of the Registrar as corresponding to the original text.

Translations

(2) The Registrar may refuse to accept any translation which the Registrar considers to be inaccurate in which event there shall be furnished to the Registrar another translation of the document in question verified in accordance with paragraph (1).

83. (1) Without prejudice to any provisions of the Law or these regulations requiring the Registrar to hear any party to proceedings under the Law or these regulations, or to give such party an opportunity to be heard, the Registrar shall,

Decisions of Registrar to be taken after hearing

before taking any decision on any matter which is or may be adverse to any party to any proceedings, give that party an opportunity to be heard.

(2) The Registrar shall give that party at least fourteen days' notice, beginning on the date on which notice is sent, of the time when the party may be heard unless the party consents to shorter notice.

Evidence in proceedings  
before the Registrar

84. (1) Subject to regulation 81(2), evidence filed in any proceedings under the Law or these regulations may be given -

- (a) by witness statement, affidavit, statutory declaration; or
- (b) in any other form which would be admissible as evidence in proceedings before the Court.

(2) A witness statement may only be given in evidence if it includes a statement of truth.

(3) Evidence at hearings is to be by witness statement unless the Registrar or any enactment requires otherwise.

(4) For the purposes of these regulations, a statement of truth -

- (a) means a statement that the person making the statement believes that the facts stated in a particular document are true; and
- (b) shall be dated and signed by -
  - (i) in the case of a witness statement, the maker of the statement; and
  - (ii) in any other case, the party or legal representative of such party.

(5) In these regulations, a witness statement is a written statement that is signed by the person making the statement and contains the evidence which that person would be allowed to give orally.

(6) Under these regulations, evidence shall only be considered filed when -

- (a) it has been received by the Registrar; and
- (b) it has been sent to all other parties to the proceedings.

Registrar to have power  
of the Clerk of the  
Grand Court

85. The Registrar shall have the powers of the Clerk of the Grand Court as regards -

- (a) the attendance of witnesses and their examination on oath; and
- (b) the discovery and production of documents,

but the Registrar shall have no power to punish summarily for contempt.

86. The hearing before the Registrar of any dispute between two or more parties relating to any matter in connection with an application for the registration of a trade mark or an actual registered trade mark shall be in public unless the Registrar, after consultation with those parties who appear in person or are represented at the hearing, otherwise directs.

Hearings before  
Registrar to be in public

87. In any proceedings, the Registrar may, by order, award to any party such costs as the Registrar may consider reasonable, based on the costs set out in Schedule 3, and shall direct the manner and by whom costs are to be paid.

Registrar may award  
costs

88. (1) The Registrar may require any person who is a party in any proceedings not already provided for under regulations 38, 57 or 67 to give security for costs in relation to those proceedings; and may also require security for the costs of any appeal from the Registrar's decision.

Security for costs;  
section 70(1)(t)

(2) In default of such security being given, the Registrar, where the proceedings are before the Registrar, or in the case of an appeal, the Appeals Tribunal may treat the party in default as having withdrawn their application, opposition, objection or intervention, as the case may be.

(3) The Registrar may, at any stage before giving a decision in the respective proceedings, require further security for costs to be given in relation to those proceedings.

89. (1) Subject to paragraph (2), the Registrar shall send to each party to the proceedings written notice of any decision made in any proceedings before the Registrar stating the reasons for that decision and, for the purposes of any appeal against that decision, the date on which the notice is sent shall be taken to be the date of the decision.

Decision of Registrar

(2) Where a statement of the reasons for the decision is not included in the notice sent under paragraph (1), any party may, within 30 days of the date on which the notice was sent to that party, request the Registrar on the relevant form in Schedule 2 request that the Registrar provide a statement of the reasons for the decision and upon such request the Registrar shall provide reasons, and the date on which the reasons are sent shall be deemed to be the date of the Registrar's decision for the purpose of any appeal against it.

(3) The Registrar may publish in the Gazette any matter in relation to an application, proceedings or decision under the Law where it is considered expedient to do so and the publication fee under regulation 96 shall be payable.

**PART 11 - APPEALS**

Decisions subject to appeal; section 58

90. (1) Except as otherwise expressly provided by these regulations, an appeal lies from any decision of the Registrar made under these regulations relating to a dispute between two or more parties in connection with a trade mark, including a decision which terminates the proceedings as regards one of the parties or a decision awarding costs to any party (referred to as “a final decision”) or a decision which is made at any point in the proceedings prior to a final decision (referred to as “an interim decision”).

(2) An interim decision (including a decision refusing leave to appeal under this paragraph) may only be appealed against independently of any appeal against a final decision with the leave of the Registrar.

Appeal to Appeals Tribunal; section 58

91. (1) Notice of appeal to the Appeals Tribunal under section 58 of the Law shall be filed on the relevant form in Schedule 2 which shall include the appellant’s grounds of appeal and the case in support of the appeal.

(2) The notice shall be filed with the Chairman and a copy filed with the Registrar within the period of fourteen days of the date of the Registrar’s decision which is the subject of the appeal (referred to as “the original decision”).

(3) Where any person other than the appellant was a party to the proceedings before the Registrar in which the original decision was made (referred to as “the respondent”), the Registrar shall send to the respondent a copy of the notice and the statement and the respondent may, within the period of twenty-one days of the date on which the notice and statement was sent, file a notice responding to the notice of appeal.

(4) The respondent’s notice shall specify any grounds on which the respondent considers the original decision should be maintained where these differ from or are additional to the grounds given by the Registrar in the original decision.

(5) The Registrar shall send a copy of the respondent’s notice to the Appeals Tribunal and a copy to the Appellant.

Hearing and determination of appeal; section 58(8)

92. (1) The Appeals Tribunal shall send written notice of the time and place appointed for the oral hearing of the appeal -

(a) where no person other than the appellant was a party to the proceedings in which the decision appealed against was made, to the Registrar and to the appellant; and

- (b) in any other case, to the Registrar and to each person who was a party to those proceedings.
- (2) The Appeals Tribunal shall send the notice in paragraph (1) at least fourteen days before the time appointed for the oral hearing.
- (3) If all the persons notified under paragraph (1) inform the person appointed that they do not wish to make oral representations then -
  - (a) the person appointed may hear and determine the case on the basis of written representations; and
  - (b) the time and place appointed for the oral hearing may be vacated.
- (4) Regulations 80, 83, 85 and 86 shall apply to the Appeals Tribunal and to proceedings before the Appeals Tribunal as they apply to the Registrar and to proceedings before the Registrar.
- (5) If there is an oral hearing of the appeal, then regulation 84 shall apply to the Appeals Tribunal and to proceedings before the Appeals Tribunal as it applies to the Registrar and to proceedings before the Registrar.
- (6) A copy of the decision of the Appeals Tribunal shall be sent, with a statement of the reasons for the decision, to the Registrar and to each person who was a party to the appeal.

## PART 12 - GENERAL

93. (1) Subject to regulation 95, the Registrar may authorise the rectification of any irregularity in procedure (including the rectification of any document filed) connected with any proceeding or other matter before the Registrar or the Registry.

Correction of irregularities in procedure

- (2) Any rectification made under paragraph (1) shall be made -
  - (a) after giving the parties such notice; and
  - (b) subject to such conditions,

as the Registrar may direct.

94. (1) The Registrar may certify any day as an interrupted day where -

- (a) there is an event or circumstance causing an interruption in the normal operation of the Registry; or
- (b) there is a general interruption or subsequent dislocation in the postal services of the Cayman Islands.

Interrupted day

(2) Any certificate of the Registrar made under paragraph (1) shall be prominently displayed in the Registry and published in the Gazette.

(3) The Registrar shall, where the time for doing anything under these regulations expires on an interrupted day, extend that time to the next following day not being an interrupted day or an excluded day.

(4) In this regulation -

(1995 Revision) “excluded day” has the same meaning as in section 8(b) of the Interpretation Law (1995 Revision); and

“interrupted day” means a day which has been certified as such under paragraph (1).

Alteration of time limits

95. (1) Subject to paragraphs (4) and (5), the Registrar may, at the request of the person or party concerned or at the Registrar’s own initiative extend a time or period prescribed by these regulations or a time or period specified by the Registrar for doing any act and any extension under this paragraph shall be made subject to such conditions as the Registrar may direct.

(2) A request for extension under this regulation may be made before or after the time or period in question has expired and where the application for registration has not been published and the request for an extension is made before the time or period in question has expired, it shall be made on the relevant form in Schedule 2.

(3) Where an extension under paragraph (1) is requested in relation to proceedings before the Registrar, the party seeking the extension shall send a copy of the request to every other person who is a party to the proceedings.

(4) The Registrar shall extend a flexible time limit, except a time or period which applies in relation to proceedings before the Registrar or the filing of an appeal to the Appeals Tribunal under regulation 91(2), where -

- (a) the request for extension is made before the end of the period of sixty days beginning with the date that the relevant time or period expired; and
- (b) no previous request has been made under this paragraph.

(5) A time limit listed in Schedule 4 (whether it has already expired or not) may be extended under paragraph (1) if -

- (a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the Registrar; and
  - (b) it appears to the Registrar that the irregularity should be rectified.
- (6) In this regulation -

“flexible time limit” means -

- (a) a time or period prescribed by these regulations; or
- (b) a time or period specified by the Registrar for doing any act or carrying out any proceedings; and

“proceedings before the Registrar” means any dispute between two or more parties relating to a matter before the Registrar in connection with a trade mark.

96. The publication fee for any document required to be published by the Registrar in the Gazette in support of any registration, appeal, proceeding or any other matter shall be as set out in Schedule 3.

Publication fee

### SCHEDULE 1

(Regulation 3)

#### Fees

Item	Particulars	Fee
1.	Notice of hearing attendance	\$50.00

2. Application to register a trade mark, collective mark or certification mark \$200.00 for one class  
\$75.00 for each additional class
3. Application for a statement of reasons for Registrar's decision \$100.00
4. Application to appoint or change agent \$150.00
5. Notice of opposition \$250.00
6. Counter-statement \$50.00
7. Application to renew or restore a trade mark \$200.00  
\$300.00 for late renewal  
\$350.00 for restoration

8.	Request to divide a series mark registered on the old register	\$100.00
9.	Application to amend regulations governing the use of a collective mark or certification mark	\$100.00
10.	Application to amend a trade mark application	\$100.00
11.	Change of owner's name or address	\$150.00
12.	Application to record a transfer of ownership	\$100.00
13.	Application to record, amend or terminate a licence	\$100.00
14.	Application to record, amend or terminate a security interest	\$100.00
15.	Notice to surrender a registration	No fee
16.	Application to revoke a registered trade mark	\$250.00
17.	Application for a declaration of invalidity	\$250.00
18.	Regulations governing the use of a collective or certification mark	\$250.00
19.	Request for a certified copy	\$100.00
20.	Request to rectify registry	No fee

21.	Request for withdrawal of application	No fee
22.	Notice of appeal to the Appeals Tribunal	\$250.00
23.	Request for extension of time	\$100.00
24.	Application to be licenced by Registrar as a registered agent	\$200.00
25.	Penalty for failure to appoint an agent within 180 days	\$100.00
26.	Annual fee	\$200.00 for one class
		\$100.00 for each additional class
27.	Late payment of annual fee (for each year of default)	\$100.00 (in aggregate, per trade mark, irrespective of the number of classes registered)
28.	Search fee	\$50.00
29.	Registered agent annual fee: number of registered trade marks as at 31st December	Under 10: \$200 10-99: \$500 100-249: \$1,000 250-499: \$1,500 500 & more \$2,000
30.	Gazette publication fee	\$50

**SCHEDULE 2**

(Regulation 4)

**INDEX AND FORMS**

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TM5	Counter-statement	73(2)(a) 30(1) 49(1) 50 59(1)
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# Forms

## H1

### Notice of Hearing Attendance Regulation 34

For official use only

Fee \$50.00

Use this form to confirm your attendance at a hearing or request a decision from the submissions instead.

1. Application or Trade mark number
2. Name of Applicant / Registered owner

3. Name of agent  
The name of the agent attending the hearing

Address

Email address

4. Reason for hearing  
Case type e.g. objections raised by Registrar

Opposition / Invalidation number

If hearing is based on a notice of opposition or invalidation proceedings, enter the number in the relevant field below.

Opposition number

Invalidation number

5. Hearing details

I, the authorized agent in the matter indicated above, hereby confirm receipt of notice hearing before the Registrar arranged for

time on date (dd/mm/yyyy)

6. Decision on the submissions

If you have received a notice of hearing date and wish to have a decision made on the papers instead, indicate so here.

I will attend the hearing  
or

I want a decision from the  
submissions

7. Declaration

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Form TM1**

**Application to register a trade mark, collective mark or certification mark**

*Regulation 16(1)*

*For official use only*

**Fee \$200.00 [Includes one class of good or service]  
\$75.00 for each additional class  
\$50.00 for publication in the Gazette**  
Use this form to file your application to register a trade mark, collective mark or certification mark.

**1. Full name**

*Proposed owner*

**Owner type**

*Specify whether Person, Registered Company/LLC,  
Partnership, Trust or Other*

**Address**

**Email address**

**2. Representative name**

**Address for service**

**Email address**

**3. Trade mark type**

- Trade Mark
- Certification Mark
- Collective Mark

**4. Representation of trade mark**

Enter trade mark in the **center** of the space provided or attach on a separate sheet.

Tick if attached

If your trade mark is a 3D shape and you are showing different views of the same mark, please indicate the number of views in the box provided. The max number of images per trade mark is 6.

**5. Trade mark classification**

List the class number(s) in consecutive numerical order and the goods or services appropriate to that class.

Applications with more than one class of goods or services are subject to an additional fee of \$75.00 for each additional class. Use continuation sheet, if necessary.

Class No.:	Specification of goods and/or services:

Total number of classes

**6. Trade mark description (optional)**

If your trade mark is not a traditional trade mark such as a word, logo, picture, letters etc., you can tell us here. e.g. if it is a 3 dimensional shape or hologram.

**7. Limitation (optional)**

Enter any limitations to your rights that you wish to volunteer. E.g. limit your rights to the specific colours.

**8. Disclaimer (optional)**

If you want to volunteer to disclaim any rights to a part of your mark, you can do so here.

**9. Non-English words and non-Roman characters**

Complete this section only if your trade mark contains non-English word(s) and/or non-Roman character(s) by providing the translation and/or transliteration below. If it is a coined word and does not have any meaning, please state so.

a.	Non-English word	Language
	Translation	
b.	Non-Roman character(s)	Language
	Translation	Transliteration

**10. Declaration**

**NB:** You cannot make any changes to the trade mark applied for or add more goods or services to your application once it has been submitted. The application fee is non-refundable (even if the application is not acceptable).

I declare that:

I have been duly authorised to act as an agent on behalf of the person(s) filing this application.

I understand and accept that I cannot make any changes to this application once filed. I also accept that any fees paid in relation to this application are non-refundable.

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of sheets attached to this form

**Form TM2**

**Application for a statement of reasons for Registrar's decision**

*Regulation 89(2)*

*For official use only*

**Fee \$100.00**

**Use this form if you want a written statement that explains the reasons for a decision that the Registrar made in respect of a trade mark.**

**1. Trade mark number**

**2. Opposition / Invalidation number**

*If the decision was made during opposition or invalidation proceedings, enter the number in the relevant field.*

**3. Full name**

*Person making this request*

**Address**

**4. Interest in the trade mark**

Agent for applicant or owner of a trade mark

Agent for opponent / revocation applicant

**5. Registrar's decision**

Tick one option that applies to your trade mark application proceeding

Decision at examination stage

Decision at opposition or invalidation

**6. Declaration**

I hereby declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

Number of sheets attached to this form

**Form TM3**

**Application to appoint or change agent**

Regulation 10(1)

For official use only

\$150.00

Use this form to appoint or change agent for a trade mark owner.

**1. Owner / Holder name**

Trade mark number(s)

Limitations / Restrictions

e.g. for oppositions only

**2. Full name of new agent**

Address

Agent must be licensed as a registered agent with CIPO

Email address

**3. Declaration**

I hereby declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

**Form TM4**

**Notice of Opposition**  
Regulations 29(1), 69(4), and 73(2)(a)

*For official use only*

**Fee \$250.00**

Use this form to file a notice of opposition to the following: registration of a trade mark, amendment of the regulations governing a collective or certification mark, or the removal of a matter from the register. You must set out the grounds on which you are basing this opposition.

Please attach separate sheets containing further details about the grounds on which the opponent is basing the opposition, if necessary.

1. Trade mark number

2. Full name of applicant / holder  
whose trade mark you are opposing

3. Full name of opponent

Address

Email address

4. Agent name

Address

Email address

5. Opposition type

pending trade mark application

amendment of a pending trade mark application after first publication

alteration of registered trade mark

amendment of regulations governing use of a collective mark or certification mark

6. Gazette number

Insert the Gazette number in which the pending trade mark application, alteration or amendment of regulations was first published.

**7. Grounds of opposition**

Select one or more of the following:

- 23(1)(a) – mark does not satisfy the definition of a trade mark
- 23(1)(b) – mark is devoid of any distinctive character
- 23(1)(c) – mark consists of signs or indications which may serve in the trade to designate kind, quality, quantity, etc.
- 23(1)(d) – mark consists of signs or indications which have become customary in the current language or in bona fide and established practices of trade
- 23(4)(a) – mark consists of a shape which results from the nature of the goods
- 23(4)(b) – mark consists of the shape of goods which are necessary to obtain a technical result
- 23(4)(c) – mark consists of a shape which gives substantial value to the goods
- 23(5)(a) – mark is contrary to public policy or morality  
mark is deceptive
- 23(5)(b) – mark is of such a nature as to deceive the public as to the nature, quality, geographical origin of the goods or services or any other feature of the goods or services
- 23(5)(c) – mark consist of a word, letter or device specified by the Registrar as a restricted or prohibited word, letter or device use of the mark is prohibited by written law or rule of law
- 23(6) – use of the mark is prohibited in the Islands by any law
- 23(7) – application of the mark is made in bad faith
- 24(a) – mark consists of or contains national flags, insignia of royalty, insignia of international organisations and emblems or the design of such flags or emblems
- 24(b) – mark consists of words, letters or devices likely to lead persons to think that the applicant either has or recently has

had Government patronage or authorisation

Other (input any other information relevant to the grounds selected)

- 25(1) — mark is identical to an earlier mark and is for identical goods or services
- 25(2)(a) — mark is identical to an earlier trade mark and is for similar goods or services
- 25(2)(b) — mark is similar to an earlier mark and is for identical or similar goods or services
- 25(3) — mark is identical or similar to an earlier trade mark where 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 repute of the earlier trade mark
- 25(4) — mark is prevented from use in the Islands by virtue of the law of passing off or any law that protects an unregistered trade mark or sign used in the course of trade
- 24(5) — opponent is entitled to prevent use of a trade mark as a proprietor of an "earlier right" in relation to the trade mark
- Other  
input any other information relevant to the grounds selected  
E.g. law relied on under 25(4)

**8. Declaration**

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of sheets attached to this form

**Form TM5**  
**Counter-statement**  
Regulations 30(1), 49(1), and 59(1)

For official use only

Fee \$50.00

Use this form to file your counterstatement to a notice of opposition.

1. Trade mark number

2. Opposition / Invalidation number

If decision was made during opposition or invalidation proceedings, enter the number in the relevant field.

Opposition number

Invalidation number

3. Full name of applicant / registered owner

4. Agent name

Address

Email address

5. Declaration

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of sheets attached to this form

**Form TM6**

**Application to renew or restore a trade mark**  
*Regulation 41, 42(1) and 43*

*For official use only*

Fee \$200.00 for renewal  
\$300.00 for late renewal  
\$350.00 for restoration  
\$50.00 for publication in the Gazette

Use this form to renew a trade mark, collective mark or certification mark.

1. Trade mark number
2. Name of Applicant / Registered owner
3. Name of agent  
The name of the agent attending the hearing

Address :

Email address

4. Classes  
List the classes to be renewed

5. Due date of renewal  
(dd/mm/yyyy)

Renewal type  
(choose one of these options)

- Application for renewal  
*(6 months before expiration of trade mark)*
- Application for late renewal  
*(up to 6 months after expiration of trade mark)*
- Application for restoration and renewal  
*(any time after 6 months post expiration of trade mark)*

6. Declaration

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of sheets attached to this form

**Form TM8**  
**Application to amend regulations governing use of Collective Mark or Certification Mark**  
*Regulation 69(1)*

*For official use only*

**Fee \$100.00**  
**\$50.00 for publication in the Gazette**  
Use this form to submit an amended copy of the regulations governing the use of certification or collective mark(s).

1. Trade mark application number

2. Name of applicant

3. Name of agent

Address

Email address

4. Type of mark

Certification

Collective

5. Regulations

*Attach copy of regulations*

Number of sheets attached

6. Declaration

I hereby declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

Number of sheets attached to this form

**Form TM9A**

**Application to amend trade mark application**  
*Regulation 16(4)*

*For official use only*

**Fee \$100.00**

**\$50.00 for publication in the Gazette**

**Use this form to make amendments to an application for trade mark registration except change of agent, name or address of applicant.**

**1. Trade mark application number**

**2. Name of applicant**

**3. Name of agent**

**Address**

**Email address**

**4. Trade mark classification**

Please clearly indicate the revised specification of the goods and/or service:

<b>Class number:</b>	
<input type="checkbox"/>	Delete class
<input type="checkbox"/>	Amend class (clearly state below the goods or services claimed, as amended)
<b>Class number:</b>	
<input type="checkbox"/>	Delete class
<input type="checkbox"/>	Amend class (clearly state below the goods or services claimed, as amended)
<b>Class number:</b>	
<input type="checkbox"/>	Delete class
<input type="checkbox"/>	Amend class (clearly state below the goods or services claimed, as amended)
<b>Class number:</b>	
<input type="checkbox"/>	Delete class
<input type="checkbox"/>	Amend class (clearly state below the goods or services claimed, as amended)

Number of continuation sheets attached

**5. Details of amendment**

If amendment is to add a disclaimer, limitation or translate and/or transliterate non-English or non-Roman characters, complete the appropriate section below.

**(i) Limitation**

Enter any limitations to your rights that you wish to volunteer, e.g. if you want to limit your rights to the specific colours.

**(ii) Disclaimer**

If you want to volunteer to disclaim any rights to a part of your mark, you can do so here.

**(iii) Non-English words and non-Roman characters**

Complete this section only if your trade mark contains non-English word(s) and/or non-Roman character(s) by providing the translation and/or transliteration below. If it is a coined word and does not have any meaning, please state so.

<b>a.</b>	<b>Non-English word</b>	<b>Language</b>
	<input type="text"/>	<input type="text"/>
	<b>Translation</b>	
	<input type="text"/>	
<b>b.</b>	<b>Non-Roman character(s)</b>	<b>Language</b>
	<input type="text"/>	<input type="text"/>
	<b>Transliteration</b>	<b>Translation</b>
	<input type="text"/>	<input type="text"/>

**6. Declaration**

I declare that the information furnished above on behalf of the applicant is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)

Number of sheets attached to this form

**Form TM9B**  
**Change of owner's name or address**  
*Regulation 72*

*For official use only*

**Fee \$150.00**  
**\$50.00 for publication in the Gazette**  
**Use this form to change owner's name or address.**

**1. Trade mark number(s)**

Number of sheets attached

**2. Name of recorded owner**

*Name of owner currently recorded in Register*

**3. Select type of change requested**

*Select all applicable options*

- Owner's name  
 Address

**4. New name of owner**

**5. New address of owner**

**6. Declaration**

I declare that the information furnished above on behalf of the applicant is true to the best of my knowledge.

Signature		

Number of sheets attached to this form

**Form TM10**

**Application to record a transfer of ownership**  
*Regulation 45(a), 45(d), 45(e) and 45(f)*

*For official use only*

Fee \$100.00  
\$50.00 for publication in the Gazette  
Use this form to record a transfer of ownership.

**1. Trade mark number (s)**

Number of sheets attached

**2. Name of recorded owner**

*Name of owner currently recorded in Register*

**3. Name of new owner**

**Address**

**Email address**

**4. Date of transfer**

**5. Method of transfer**

*Select appropriate option.*

- Assignment
- Court order
- Assent of personal representative
- Merger
- Testamentary disposition
- Operation of law

**6. Signature for authorising the transfer of ownership**

*Both parties' agents must sign this form. If this cannot be done, documentary evidence in support of the transfer must be provided.*

**Signature**

(Agent of former owner)  
**Name**

**Signature**  
(Agent of new owner)

**Name**

**7. Validation / Supporting documents**

Check the applicable box

Application validated by agents of all relevant parties

or

Copy of documentary evidence in support of transfer attached

**8. Declaration of person making this request**

I hereby declare that the above information is true to the best of my knowledge.

**Signature**

**Name**

**Date (dd/mm/yyyy)**

Number of sheets attached to this form

**Form TM11**

**Application to record, amend or terminate a licence**

*Regulation 45(b)*

*For official use only*

**Fee \$100.00**

**Use this form to record, amend or terminate a licence.**

**1. Trade mark number (s)**

Number of sheets attached

**2. Transaction type**

Select appropriate option

Recordal

Amendment

License Reference No.

Termination

License Reference No.

3. Name of recorded owner (licensor)

4. Full name of the licensee

**Licensee type**

Specify whether Person, Registered Company/LIC, Partnership, Trust or Other

**Address**

**Email address**

5. Licensee representative name

**Address**

**Email address**

6. Date licence starts

**Date licence ends**

If applicable

7. Is the licence exclusive?

Select appropriate option

Yes

No

8. Goods and services

Indicate the goods and/or services to which the licence applies

<b>All registered goods and/or services</b>
<b>Some goods and services (specify below)</b>
<b>All registered goods and/or services</b>
<b>Some goods and services (specify below)</b>

**Goods and services**

Indicate the goods and/or services to which the license applies:

All registered goods and/or services
Some goods and services (specify below)
All registered goods and/or services
Some goods and services (specify below)
All registered goods and/or services
Some goods and services (specify below)
All registered goods and/or services
Some goods and services (specify below)
All registered goods and/or services
Some goods and services (specify below)

*(Please insert this continuation sheet, if necessary)*

9. Details of amendment or termination of licence

10. Signature for authorisation to register/amend/terminate a licence

Current agent of the owner of trade mark must complete and sign this section. If this cannot be done, a copy of the licence agreement must be submitted.

Signature

Name

Date

11. Validation / Supporting documents

Check the applicable box

Application validated by agent of licensor

or

Copy of licence agreement attached

12. Declaration of person making this request

I hereby declare that the above is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of sheets attached to this form

**Form TM12**

**Application to record, amend or terminate a security interest**

Regulation 45(c)

For official use only

Fee \$100.00

Use this form to record, amend or terminate a security interest

1. Trade mark number(s)

Number of sheets attached

**2. Transaction type**

Select appropriate option

Recordal

Amendment

Security Interest Reference No.

Termination

Security Interest Reference No.

**3. Name of recorded owner (grantor)**

**4. Full name of grantee**

**Grantee type**

Specify whether Person, Registered Company/LIC, Partnership, Trust or Other

**Address**

**Email address**

**5. Charge details**

**6. Validation/ Supporting documents**

Check the applicable box

Application validated by agent of grantor

or

Copy of documentary evidence establishing security interest attached

**7. Details of amendment or termination of the security interest**

**8. Signature for authorisation to register/amend/terminate a security interest**

Current agent of owner of trade mark must complete and sign this section. If this cannot be done, a copy of the security interest agreement must be submitted.

Signature

Name

Date

**9. Declaration of person making this request**

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of sheets attached to this form

**Form TM13**  
**Notice to surrender a registration**  
*Regulation 47*

*For official use only*

**No fee**

Use this form to surrender a registered trade mark.

**Note:** Once a registration is fully surrendered, it cannot be reinstated.

**1. Trade mark number**

To be surrendered

**2. Name of recorded owner**

**3. Transaction type**

Select appropriate option

Full surrender

Partial surrender

**4. Other interested parties**

Does anyone else have a registered interest in the trade mark?

Yes

No

**5. Full name(s) of interested parties**

Address

Email address

**6. Interested parties**

Select one option only

Everyone listed as having a registered interest was notified three months before sending this form

Everyone listed as having a registered interest in this mark consents to its surrender

**7. No other parties with a registered interest**

There are no other parties with a registered interest in this mark

**8. Trade mark classification**

Please clearly indicate the specification of the goods and/or services to be surrendered if application is for a partial surrender

<b>Class number</b> specify goods and/or services below
<b>Class number</b> specify goods and/or services below
<b>Class number</b> specify goods and/or services below

**9. Declaration of person making this request**

I declare that the information furnished above on behalf of the applicant is true to the best of my knowledge.

Signature

Name

Number of sheets attached to this form

**Form TM14**  
**Application to revoke a registered trade mark**  
*Regulation 48*

*For official use only*

**Fee \$250.00**  
Use this form to apply to revoke a registered trade mark.

1. Trade mark number
2. Full name of registered owner / holder  
whose trade mark you wish to have revoked
3. Full name of applicant for revocation

**Address**

**Email address**

4. Agent name

**Address**

**Email address**

5. Grounds of revocation

- Select one or more of the following:
- the trade mark has become the common name in the trade
  - use made of the trade mark is liable to mislead the public

(Attach supporting statement and indicate number of sheets attached below)

6. Declaration

I hereby declare that the above information is true to the best of my knowledge.

**Signature**

**Name**

**Date (dd/mm/yyyy)**

Number of sheets attached to this form

**Form TM15**  
**Application for a declaration of invalidity**  
*Regulation 58(1)*

*For official use only*

**Fee \$250.00**  
**Use this form to commence invalidation proceedings.**

**1. Trade mark number**

**2. Full name of registered owner / holder**  
Whose trade mark you are applying to invalidate

**3. Full name of the applicant for invalidation**

Address

Email address

**4. Agent name**

Address

Email address

**5. Grounds of invalidation**

Select one or more of the following:

**a. Absolute grounds**

- 23(1)(b) — mark is devoid of any distinctive character
- 23(1)(c) — mark consists of signs or indications which may serve in the trade to designate kind, quality, quantity, etc.
- 23(1)(d) — mark consists of signs or indications which have become customary in the current language or in bona fide and established practices of trade

**b. Relative grounds**

- 25(1) — mark is identical to an earlier mark and is for identical goods or services
- 25(2)(a) — mark is identical to an earlier trade mark and is for

similar goods or services

- 25(2)(b) — mark is similar to an earlier mark and is for identical or similar goods or services
- 25(3) — mark is identical or similar to an earlier trade mark and where the earlier trade mark has a reputation in the Islands
- 25(4) — mark is prevented from use in the Islands by virtue of the law of passing off or any law that protects an unregistered trade mark or other sign in the course of trade
- 24(5) — opponent is entitled to prevent use of a trade mark as a proprietor of an "earlier right"

**6. Declaration**

I hereby declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

Number of sheets attached to this form

**Form TM16**

**Regulations governing use of collective or certification mark**

Regulation 68

For official use only

Fee \$250.00

Use this form to submit a copy of regulations governing the use of a certification or collective mark.

**1. Collective or Certification mark number**

**2. Type of trade mark**  
Select appropriate option

Collective mark

Certification mark

3. Regulations

Number of sheets attached to this form

4. Declaration

I hereby declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Form TM17**  
**Request for a certified copy**  
*Regulation 71*

*For official use only*

**Fee \$100.00 [for each copy]**  
Use this form to request a certified copy of any document.

1. Trade mark number

2. Name of the trade mark owner

3. Certified copy requested  
Select appropriate option(s):

- The application as originally filed
- The application or registration as it currently is
- Certified copy of any other entry in the Register (specify below)

4. Number of copies

Number of copies required

5. Declaration

I declare that the above information is true to the best of my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Form TM18**  
**Request for information**  
Regulation 75

*For official use only*

**Fee \$50.00 [per event]**

**Use this form to request information about specific events relating to a trade mark.**

**1. Trade mark number**

**2. Name of the trade mark owner**

**3. Information requested**

Select the event(s) you would like to be notified about

- Trade mark application is published
- Trade mark application is opposed
- Trade mark is registered
- Trade mark is assigned
- Trade mark is withdrawn, refused or removed from the register
- Trade mark registration is renewed
- Recordal of a licence
- Removal or amendment of a licence
- Changes made to goods or services
- Application for declaration of invalidity of trade mark
- Application for revocation of trade mark
- Application to record, amend or cancel a

registrable transaction other than an assignment  
or license

Appointment of a new agent

**4. Declaration**

I declare that the above information is true to the best of  
my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Form TM19**

**Request to rectify the Register**  
Regulation 76(1)

*For official use only*

**No fee**

Do not use this form to change owner's name or address or to amend an application.

1. Trade mark number
2. Name of the trade mark owner
3. Provide details of the rectification or correction of the error or omission in the Register

**4. Declaration**

I declare that the above information is true to the best of  
my knowledge.

Signature	Name	Date (dd/mm/yyyy)
<input type="text"/>	<input type="text"/>	<input type="text"/>

**Form TM20**  
**Request for withdrawal of application**  
*Regulation 77(1)*

*For official use only*

**No fee**  
Use this form to withdraw a trade mark application after filing.

1. **Details of application to be withdrawn:**  
Application number  
  
Classes to be withdrawn
2. **Name of the applicant**
3. **Declaration of person making this request** I declare that the above information is true to the best of my knowledge.  

Signature	Name	Date (dd/mm/yyyy)

**Form TM21**  
**Notice of appeal to the Appeals Tribunal**  
*Regulation 91(1)*

*For official use only*

**Fee \$250.00**  
Use this form to appeal a decision of the Registrar to the Appeals Tribunal.

1. **Trade mark number**
2. **Full name of registered owner / holder**
3. **Opposition or invalidation number**  
If applicable
4. **Type of decision**  
Tick the option that applies to the  

<input type="checkbox"/>	Decision on substance
--------------------------	-----------------------

decision of the Registrar you are appealing.

  

Procedural decision  
Examination decision

**5. Grounds for appeal**

(Insert continuation sheets, if necessary)

**6. Declaration**

I declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

Number of sheets attached to this form

**Form TM22**

**Request for an extension of time**  
Regulation 95(2)

For official use only

Fee \$100.00

Use this form to request an extension of a time limit.

1. Trade mark number
2. Full name of registered owner / holder
3. Date of existing or expired deadline
4. Amount of time requested from the deadline specified in 3 above.
5. Reason for extension of time request

**6. Declaration**

I hereby declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

Number of sheets attached to this form

**Form TM23**

**Application to be licensed by Registrar as a registered agent**

*Regulation 10(4)*

*For official use only*

Fee \$200.00

Use this form to be registered as a trade mark agent.

**1. Name of individual or firm / company**

Address

Email address(es)

Phone number(s)

Fax number(s)

**2. Documents attached**

**A. For a firm/company**

- company management licence
- previous company name under which trade marks were registered, if applicable
- current company same that has registered trade marks, if applicable

**B. For an individual**

- proof of qualification or experience
- proof of Caymanian status
- copy of trade and business licence
- proof of indemnity insurance coverage

**3. Declaration**

I hereby declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

Number of sheets attached

**Form TM24**

**Request to be removed as registered agent**

*Regulation 11(1)*

*For official use only*

No fee

Use this form to request that you be removed as registered agent on behalf of a proprietor.

1. Trade mark number(s)

2. Name of agent

Address

Email address

3. Notification

I have notified the proprietor(s)

I have not notified the proprietor(s)

4. Declaration

I declare that the above information is true to the best of my knowledge.

Signature

Name

Date (dd/mm/yyyy)

**SCHEDULE 3**

(Regulations 37, 56, 66, 88)

**Costs in proceedings before the Registrar**

Task	Cost
1. Preparing a statement and considering the other side's statement	From \$200 to \$600 depending on the nature of the statements, for example their complexity and relevance.
2. Preparing evidence and considering and commenting on the other side's evidence	From \$500 if the evidence is light to \$4000 if the evidence is substantial. The award could go above this range in exceptionally large cases but will be cut down if the successful party had filed a significant amount of unnecessary evidence.
3. Preparing for and attending a hearing	Up to \$1500 per day of hearing, capped at \$5000 for the full hearing unless one side has behaved unreasonably. From \$300 to \$600 for preparation of submissions, depending on their substance, if there is no oral hearing.
4. Expenses	(a) Official fees arising from the action and paid by the successful party (other than fees for extensions of time). (b) The reasonable travel and accommodation expenses for any witnesses of the successful party required to attend a hearing for cross examination.

**Off scale costs**

5. The Registrar has the ability to award costs off the scale, approaching full compensation, to deal proportionately with wider breaches of rules, delaying tactics or other unreasonable behaviour. The overriding factor in determining unreasonable behaviour is that the Registrar should act judicially in all the facts

of a case. A party having lost, is not in and of itself indicative of unreasonable behaviour.

6. The amount awarded in cases of unreasonable behaviour should be commensurate with the extra expenditure a party has incurred as the result of unreasonable behaviour on the part of the other side.

7. Any claim for cost approaching full compensation or for "extra costs" will need to be supported by a bill itemizing the actual costs incurred.

8. Depending on the circumstances the Registrar may also award costs below the minimum indicated by the standard scale.

#### **Costs arising from interlocutory or preliminary hearings**

9. The Registrar will always consider dealing with costs as the cause of them arises, either by specifically making no award if the issues were fairly well balanced or by making an award to the successful party.

#### **Conditional fee arrangements**

10. If one of the parties in dispute before the Registrar has agreed a conditional fee arrangement ("CFA") with their legal representative, any "success fee" will not be taken into account when assessing costs. If the normal scale is applied, there will be no uplift to take account of any CFA. Even when off-scale costs are awarded, the amount will be assessed using the usual principles for assessing off-scale costs, and the amount will not be affected by the existence of a CFA.

11. A party does not need to provide information about any CFA in relation to proceedings before the Registrar.

### **SCHEDULE 4**

(Regulation 95)

#### **Alteration of time limits**

Regulation 29(1) (filing notice of opposition)

Regulation 30(1) (counter-statement in opposition proceedings)

Regulation 69(4) (opposition to amendment of regulations of collective and certification marks)

Regulation 41 (renewal of registration)

Regulation 42(1) (late renewal)

Regulation 43 (restoration of registration)

Regulation 49(1) (counter-statement for revocation)

Regulation 59(1) (counter-statement for invalidity)

Regulation 73(2)(a) (opposition to removal of matter from Register)

Regulation 95(4) (period for making a retrospective request to extend a flexible time period)

Made in Cabinet the 17<sup>th</sup> day of May, 2017.

Kim Bullings

Clerk of the Cabinet.