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TRADE MARKS ACT
(CHAPTER 332)

TRADE MARKS (BORDER ENFORCEMENT MEASURES)
(AMENDMENT) RULES 2019

In exercise of the powers conferred by section 108 of the Trade Marks Act, the Minister for Law makes the following Rules:

Citation and commencement

1. These Rules are the Trade Marks (Border Enforcement Measures) (Amendment) Rules 2019 and come into operation on 21 November 2019.

Amendment of rule 2

2. Rule 2 of the Trade Marks (Border Enforcement Measures) Rules (R 2) (called in these Rules the principal Rules) is amended by inserting, immediately after the definitions of “authorised officer” and “Director-General”, the following definition:

“ “dealer” means the importer, exporter or consignee of the goods seized under section 93A of the Act;”.

Deletion and substitution of rule 3

3. Rule 3 of the principal Rules is deleted and the following rule substituted therefor:

“Notice under section 82(1) of Act

3.—(1) A notice to the Director-General under section 82(1) of the Act must be supported by the following documents and information:

- (a) a statutory declaration that the particulars in the notice are true;
- (b) a copy of the certificate of registration issued by the Registrar under section 15(3) of the Act in relation to the registered trade mark specified in the notice;

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- (c) evidence that the registration of the registered trade mark was duly renewed at all times;
 - (d) where the notice is given by a person as agent for the proprietor or a licensee of the registered trade mark, evidence of the authority of the person giving the notice.
- (2) The notice must be accompanied by the fee prescribed in the Trade Marks (Border Enforcement Measures Fees) Rules 2019 (G.N. No. S 749/2019).
- (3) The proprietor or a licensee of the registered trade mark may appoint another person to act as his or her agent for the purpose of giving the notice.”.

Amendment of rule 4

4. Rule 4 of the principal Rules is amended —
- (a) by deleting the words “the Customs and Excise Department” wherever they appear and substituting in each case the words “the Singapore Customs”; and
 - (b) by deleting the rule heading and substituting the following rule heading:
“Time and manner of giving notice under section 82(1) of Act”.

Amendment of rule 5

5. Rule 5 of the principal Rules is amended by deleting the rule heading and substituting the following rule heading:
“Further information and evidence for notice under section 82(1) of Act”.

Deletion and substitution of rule 6

6. Rule 6 of the principal Rules is deleted and the following rule substituted therefor:
“Change in particulars of notice under section 82(1) of Act
6. A person who has given a notice under section 82(1) of the Act to the Director-General must notify the Director-General in writing of any change in the particulars specified in the notice or affecting the notice within 7 days of the change, and provide any document and information in relation to the change that the Director-General may reasonably require.”.

Amendment of rule 7

7. Rule 7 of the principal Rules is amended —

(a) by deleting paragraph (a) and substituting the following paragraph:

“(a) any direction of the Director-General; or”; and

(b) by deleting the rule heading and substituting the following rule heading:

“Refusal to seize goods pursuant to notice under section 82(1) of Act”.

Deletion and substitution of rule 8

8. Rule 8 of the principal Rules is deleted and the following rule substituted therefor:

“Period under section 85(2)(a) of Act for instituting infringement action

8. For the purposes of section 85(2)(a) of the Act, the prescribed period is 10 working days after the day specified in the notice mentioned in section 85(1) of the Act.”.

Amendment of rule 9

9. Rule 9 of the principal Rules is amended by deleting the rule heading and substituting the following rule heading:

“Period under section 85(6) of Act for extension of initial period”.

Amendment of rule 9A

10. Rule 9A of the principal Rules is amended —

(a) by inserting, immediately after the word “importer”, the words “or exporter (as the case may be)”; and

(b) by deleting the rule heading and substituting the following rule heading:

“Written undertakings for forfeiture of seized goods by consent under section 87(1) of Act”.

Deletion of rule 9B

11. Rule 9B of the principal Rules is deleted.

Amendment of rule 9C

12. Rule 9C of the principal Rules is amended —

- (a) by deleting the words “or that provision as applied by section 93A(5)(b) of the Act,” in paragraph (1);
- (b) by deleting the words “seized or detained goods” in paragraph (1) and substituting the words “seized goods”;
- (c) by deleting the words “importer, exporter or consignee (as the case may be)” in paragraphs (1) and (2) and substituting in each case the words “importer or exporter (as the case may be)”; and
- (d) by deleting the rule heading and substituting the following rule heading:

“Disposal of seized goods forfeited by consent under section 87(3) of Act”.

Deletion and substitution of rule 10 and new rules 11 to 19

13. Rule 10 of the principal Rules is deleted and the following rules substituted therefor:

“Period under section 93B(1) of Act

10. For the purposes of section 93B(1) of the Act, the prescribed period is 48 hours after the date of the written notice mentioned in section 93A(3) of the Act.

Notice under section 93B(1) of Act

11.—(1) A notice to the Director-General under section 93B(1) of the Act must be supported by the following documents and information:

- (a) a statutory declaration that the particulars in the notice are true;
- (b) a copy of the certificate of registration issued by the Registrar under section 15(3) of the Act in relation to the registered trade mark specified in the notice;
- (c) evidence that the registration of the registered trade mark was duly renewed at all times;
- (d) where the notice is given by a person as agent for the proprietor of the registered trade mark, evidence of the authority of the person giving the notice.