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No. S 750

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.

(2) The notice must be accompanied by the fee prescribed in the Trade Marks (Border Enforcement Measures Fees) Rules 2019.

(3) The proprietor of the registered trade mark may appoint another person to act as his or her agent for the purpose of giving the notice.

Time and manner of giving notice under section 93B(1) of Act

12. A notice to the Director-General under section 93B(1) of the Act must be delivered to the Singapore Customs during any time that the office of the Singapore Customs is open for business.

Further information and evidence for notice under section 93B(1) of Act

13. A person who has given a notice under section 93B(1) of the Act to the Director-General must, as and when required by the Director-General, give to the Director-General any information and evidence within any time and in any form that the Director-General may reasonably require.

Change in particulars of notice under section 93B(1) of Act

14. A person who has given a notice under section 93B(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.

Release of seized goods to dealer under section 93B of Act

15. The Director-General may release the seized goods in relation to which a notice has been given under section 93B(1) of the Act to the dealer concerned, if the person who gave the notice fails to comply with —

- (a) any direction of the Director-General; or
- (b) any provision of these Rules.

Period under section 93C(1)(a) of Act for instituting infringement action

16. For the purposes of section 93C(1)(a) of the Act, the prescribed period is 10 working days after the day specified in the notice mentioned in section 93C(1) of the Act.

Period for extension of initial period under section 85(6) of Act as applied by section 93C(2) of Act

17. For the purposes of section 85(6) of the Act as applied by section 93C(2) of the Act, the prescribed period is 10 working days after the end of the initial period mentioned in section 85(6) of the Act.

Written undertakings for forfeiture of seized goods by consent under section 93F of Act

18. For the purposes of section 93F(1) of the Act, the prescribed written undertakings are that the dealer must —

- (a) propose an arrangement for the disposal of the seized goods for the Director-General's approval; and
- (b) dispose of the seized goods in accordance with an arrangement approved by the Director-General —
 - (i) within one month after the date of a notice given by the Director-General; and
 - (ii) under the supervision of an officer of customs.

Disposal of seized goods forfeited by consent under section 93F of Act

19.—(1) Upon forfeiture of the seized goods to the Government under section 93F(3) of the Act, the goods must be disposed of by the dealer in accordance with an arrangement approved by the Director-General —

- (a) within one month after the date of a notice given by the Director-General; and
- (b) under the supervision of an officer of customs.

(2) If the dealer does not dispose of the seized goods within the period mentioned in paragraph (1)(a), the Director-General must dispose of those goods in any manner that the Director-General deems fit.”.

Deletion of Schedule

14. The Schedule to the principal Rules is deleted.

Miscellaneous amendments

15. The principal Rules are amended —

- (a) by inserting, immediately above rule 1, the following Part heading:

“PART 1

PRELIMINARY”;

- (b) by inserting, immediately above rule 3, the following Part heading:

“PART 2

SEIZURE OF GOODS ON REQUEST”;

- (c) by inserting, immediately above rule 10, the following Part heading:

“PART 3

EX-OFFICIO SEIZURE OF GOODS”.

Transitional provisions

16.—(1) The principal Rules, as amended by these Rules, apply in relation to a notice —

- (a) that was given in accordance with section 82 of the Act before 21 November 2019;
- (b) pursuant to which goods have yet to be seized before that date; and
- (c) that remained in force immediately before that date,

as if it were a notice given in accordance with section 82 of the Act on or after 21 November 2019.

(2) Despite these Rules, the principal Rules as in force immediately before 21 November 2019 continue to apply to a case where goods were seized or detained under section 82 or 93A of the Act on or after 10 October 2018 but before 21 November 2019.

[G.N. Nos. S 371/2004; S 557/2018]

Made on 5 November 2019.

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Singapore.*

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