

TRADE MARKS ACT
(CHAPTER 332, SECTION 108)

TRADE MARKS (BORDER ENFORCEMENT MEASURES)
RULES

ARRANGEMENT OF RULES

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The Schedule

[15th January 1999]

Citation

1. These Rules may be cited as the Trade Marks (Border Enforcement Measures) Rules.

Definitions

2. In these Rules —

“authorised officer” and “Director-General” have the meanings given by section 81 of the Act;

“officer of customs” has the meaning given by section 3(1) of the Customs Act (Cap. 70).

[S 557/2018 wef 10/10/2018]

Notice under section 82(1) of Act

3.—(1) A notice to the Director-General under section 82(1) of the Act shall be in the form set out in the Schedule.

(2) The notice shall be accompanied by —

- (a) a statutory declaration that the particulars in the notice are true;
- (b) a fee of \$200;
- (c) a copy of the certificate of registration issued by the Registrar under section 15(5) of the Act in relation to the registered trade mark specified in the notice;
- (d) evidence that the registration of the registered trade mark was duly renewed at all times; and
- (e) where the notice is given by a person as agent for the proprietor or licensee of the registered trade mark (whichever is appropriate), evidence of the authority of the person giving the notice.

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

Time and manner of giving notice

4. A notice to the Director-General under section 82(1) of the Act shall be delivered to the Customs and Excise Department —

- (a) during such time as the office of the Customs and Excise Department is open for business; and
- (b) at such time as is reasonably possible for an authorised officer to take any action under the Act in relation to the notice.

Further information and evidence

5. A person who has given a notice under section 82(1) of the Act to the Director-General shall, as and when required by the Director-General, give to the Director-General such information and evidence within such time and in such form as the Director-General may reasonably require.

Change in particulars

6. A person who has given a notice to the Director-General shall 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 further notice shall be given as the Director-General may require.

Refusal to seize

7. An authorised officer may refuse to seize goods to which a notice under section 82(1) of the Act relates if the person who has given the notice fails to comply with —

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

Period for instituting action for registered trade mark

8. For the purposes of section 85(3) of the Act, the prescribed period is 10 working days.

Period for extension of retention period

9. For the purposes of subsection (6) of section 85 of the Act, the prescribed period is 10 working days after the end of the initial period mentioned in that subsection.

Written undertakings for forfeiture by consent of goods seized on request

9A. For the purposes of section 87(1) of the Act, the prescribed written undertakings are that the importer 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.

[S 557/2018 wef 10/10/2018]

Written undertakings for forfeiture by consent of goods detained under section 93A of Act

9B. For the purposes of section 87(1) of the Act as applied by section 93A(5)(b) of the Act, the prescribed written undertakings are that the exporter or the consignee (as the case may be) must —

- (a) propose an arrangement for the disposal of the detained goods for the Director-General's approval; and
- (b) dispose of the detained 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.

[S 557/2018 wef 10/10/2018]

Disposal of seized or detained goods forfeited by consent

9C.—(1) Upon forfeiture of the goods to the Government under section 87(3) of the Act, or that provision as applied by section 93A(5)(b) of the Act, the seized or detained goods must be disposed of by the importer, exporter or consignee (as the case may be) 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 importer, exporter or consignee (as the case may be) does not dispose of the goods within the period mentioned in paragraph (1)(a), the Director-General must dispose of those goods in such manner as the Director-General thinks fit.

[S 557/2018 wef 10/10/2018]

Prescribed period under section 93A(3) of Act

10. For the purposes of section 93A(3) of the Act, the prescribed period shall be —

(a) 48 hours after the Director-General has given the proprietor of the registered trade mark the written notice referred to in section 93A(2) of the Act; or

(b) where —

(i) the detained goods are goods that are to be exported from Singapore or goods in transit that are consigned to a person with a commercial or physical presence in Singapore; and

(ii) the proprietor of the registered trade mark has complied with section 93A(3)(b)(iii) of the Act within the period referred to in paragraph (a),

10 working days after the Director-General has given the proprietor of the registered trade mark the written notice referred to in section 93A(2) of the Act.

[S 371/2004 wef 01/07/2004]

THE SCHEDULE

Rule 3

NOTICE UNDER SECTION 82(1) OF THE TRADE MARKS ACT

Please read these instructions before completing the notice

1. This notice may only be given by the proprietor or licensee of a registered trade mark.

2. Unless otherwise indicated, the notice must provide sufficient particulars of all matters specified therein and in Appendices 1 and 2 to enable the Director-General

THE SCHEDULE — *continued*

of Customs to act on it. Please follow the instructions in the Explanatory Notes below when filling up the notice.

3. A statutory declaration that the contents of the notice are true is to be enclosed with the notice.

4. A fee of \$200 is payable on giving the notice.

5. A copy of the certificate of registration for the trade mark, as well as the certificate of renewal (where applicable), is to be enclosed with the notice.

6. You are required to provide the Director-General of Customs with security (whether by way of deposit of money, an instrument of guarantee or otherwise) that is sufficient to —

(a) reimburse the Government for any liability or reasonable expense it is likely to incur in relation to the seizure, storage and disposal of the goods; and

[S 557/2018 wef 10/10/2018]

(b) compensate any person suffering damage as a result of the seizure,

in accordance with section 83 of the Trade Marks Act. Please note that you will be responsible for any liability or expense which exceeds the amount of the security.

7. Please note that the notice lapses within 60 days commencing on the day of the giving of the notice.

NOTICE

To the Director-General of Customs:

1. I, _____⁽¹⁾, hereby give you notice that _____⁽²⁾ —

(a) is the _____⁽³⁾ of a trade mark registered in Singapore, a representation of which is set out in Appendix 1; and

(b) objects to the import into Singapore of the goods described in Appendix 2.

2. To the best of my knowledge and belief —

(a) the importer of the goods is _____⁽⁴⁾; and

(b) the particulars of the time when and place where the goods are expected to be imported into Singapore are as follows:⁽⁵⁾

3. The goods are infringing goods because _____⁽⁶⁾.

4. The goods are not goods in transit because _____⁽⁷⁾.

THE SCHEDULE — *continued*

5. I hereby request that the said goods be dealt with in accordance with Part X of the Trade Marks Act.

Date:

Signature:

Designation: ⁽⁸⁾

Explanatory Notes

- (1) State the name and address of the person giving the notice.
- (2) State the name and address of the proprietor or licensee on whose behalf the notice is given.
- (3) State “proprietor” or “licensee”, as applicable.
- (4) State the name and address of the importer.
- (5) State —
 - (a) the estimated date of arrival of the goods;
 - (b) the name of the port, airport or checkpoint by which the goods are expected to be imported into Singapore;
 - (c) the name of the ship, the flight number of the aircraft or the vehicle registration number of the motor vehicle by which the goods are expected to be imported into Singapore; and
 - (d) where available —
 - (i) the country of origin of the goods; and
 - (ii) any other information which may indicate the actual time when and place where the goods will be imported into Singapore.
- (6) State the grounds on which it is claimed that the goods are infringing goods within the meaning of section 3 of the Trade Marks Act read with sections 27, 28 and 29 of that Act.
- (7) State the grounds on which it is claimed that the goods are not goods in transit within the meaning of section 81 of the Trade Marks Act.
- (8) State the designation of the person giving the notice, i.e. “proprietor”, “licensee”, “agent of proprietor” or “agent of licensee”. If the notice is given on behalf of an entity, insert the name of the entity and the designation within the entity of the person giving the notice.

[S 557/2018 wef 10/10/2018]

THE SCHEDULE — *continued*

APPENDIX 1

Representation of Registered Trade Mark.

APPENDIX 2

Provide sufficient information to describe and identify the goods, including, where available, particulars of —

- (a) the quantity and value of the goods;
- (b) the number of packages;
- (c) any mark used;
- (d) any relevant bill of lading or air waybill; and
- (e) any relevant consignment reference number.

[S 371/2004 wef 01/07/2004]

LEGISLATIVE HISTORY
TRADE MARKS (BORDER ENFORCEMENT MEASURES)
RULES
(CHAPTER 332, R 2)

This Legislative History is provided for the convenience of users of the Trade Marks (Border Enforcement Measures) Rules. It is not part of these Rules.

1. G. N. No. S 5/1999 — Trade Marks (Border Enforcement Measures) Rules 1999

Date of commencement : 15 January 1999

2. 2001 Revised Edition — Trade Marks (Border Enforcement Measures) Rules

Date of operation : 31 January 2001

3. G. N. No. S 371/2004 — Trade Marks (Border Enforcement Measures) (Amendment) Rules 2004

Date of commencement : 1 July 2004

4. G.N. No. S 557/2018 — Trade Marks (Border Enforcement Measures) (Amendment) Rules 2018

Date of commencement : 10 October 2018