

TRADE MARKS ACT
(CHAPTER 332, SECTION 108)

TRADE MARKS (BORDER ENFORCEMENT MEASURES)
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[15th January 1999]

PART 1
PRELIMINARY

[S 750/2019 wef 21/11/2019]

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;

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

[S 750/2019 wef 21/11/2019]

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

PART 2

SEIZURE OF GOODS ON REQUEST

[S 750/2019 wef 21/11/2019]

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;
- (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.

[S 750/2019 wef 21/11/2019]

Time and manner of giving notice under section 82(1) of Act

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

- (a) during such time as the office of the Singapore Customs 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.

[S 750/2019 wef 21/11/2019]

Further information and evidence for notice under section 82(1) of Act

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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

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 direction of the Director-General; or

[S 750/2019 wef 21/11/2019]

(b) any provision of these Rules.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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

[S 750/2019 wef 21/11/2019]

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

9A. For the purposes of section 87(1) of the Act, the prescribed written undertakings are that the importer or exporter (as the case may be) 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 750/2019 wef 21/11/2019]

9B. *[Deleted by S 750/2019 wef 21/11/2019]*

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

9C.—(1) Upon forfeiture of the goods to the Government under section 87(3) of the Act, the seized goods must be disposed of by the importer or exporter (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.

[S 750/2019 wef 21/11/2019]

(2) If the importer or exporter (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 750/2019 wef 21/11/2019]

[S 750/2019 wef 21/11/2019]

PART 3

EX-OFFICIO SEIZURE OF GOODS

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

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.

[S 750/2019 wef 21/11/2019]

THE SCHEDULE

[Deleted by S 750/2019 wef 21/11/2019]

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

5. G.N. No. S 750/2019 — Trade Marks (Border Enforcement Measures) (Amendment) Rules 2019

Date of commencement : 21 November 2019