

Trade Marks Regulations

SAINT LUCIA

No. 17 of 2003

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*Trade Marks Regulations***SAINT LUCIA**

STATUTORY INSTRUMENT, 2003, No. 17

[24th February, 2003]

In exercise of the power conferred by section 200 of the Trade Marks Act 2001, No. 22, the Minister responsible for Intellectual Property makes these Regulations:

PART I
PRELIMINARY**Citation**

1. These Regulations may be cited as the Trade Marks Regulations 2003.

Commencement

2. These Regulations shall come into force on the 1st day of April, 2003.

Interpretation

3. In these Regulations —

“Act” means the Trade Marks Act 2001, No. 22;

“certificate of verification” means a statement —

(a) that a document to which the statement relates —

(i) has been translated by a person who is proficient in both the language from which the document has been translated into English, and English; and

(ii) is a true and complete translation of the accompanying document to the best of the knowledge of the person who signs the statement; and

(b) that is dated and signed;

“earlier application”, in relation to an application for the registration of a trade mark for which a right of priority is claimed, means an application for the registration of that trade mark in a Convention country—

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(a) that was filed, at the trade marks office, or its equivalent, of that Convention country before the application for which the right of priority is claimed; and

(b) on which the claim for the right of priority is based;

“National Archives Authority of St. Lucia” means the National Archives Authority of St. Lucia established under the National Archives Authority of St. Lucia Act 1993, No. 16;

“trade marks officer” means any officer so designated by the Registrar;

“working day” means a day other than a Saturday, a Sunday or a public holiday.

PART 2

TRADE MARKS AND TRADE MARK RIGHTS

Classification of goods and services

4.— (1) For the purposes of section 11 (2) (6), and section 11 (3) of the Act (which deals with the classification of goods and services) an application for registration of a trade mark must specify the goods or services and the class or classes in respect of which the trade mark is sought to be registered in accordance with the Nice Classification.

Period in which action for infringement may be brought

5. For the purposes of section 10(1) (b) of the Act (which deals with powers of the authorised user of a trade mark), the prescribed period is 2 months from the day on which the authorised user of a trade mark asks the registered owner of the trade mark to bring an action for infringement of the trade mark.

PART 3

APPLICATION FOR REGISTRATION

Applications: approved form

6.— (1) For the purposes of section 11 (1) of the Act (which deals with applications for registration) and Parts 15, 16 and 17 of the Act (which deal with collective trade marks, certification trade marks and defensive trade marks respectively), an application for the registration of a trade mark shall be in the form prescribed in Form 1 of Schedule 6.

(2) Any material that is intended by the applicant to form part of the application for registration of a trade mark —

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- (a) must be attached to the application; and
- (b) is taken to be part of the application.

Applications: requirements for filing

7.— (1) In order for an application for registration of a trade mark to be taken to be filed, the applicant must —

- (a) state that the application is for registration of the trade mark, or contain a clear indication to that effect;
- (b) include a representation of the trade mark that is sufficient to identify the trade mark;
- (c) specify the goods or services or both in relation to which the application is made;
- (d) specify the name of the applicant;
- (e) contain sufficient information to enable the Registrar to contact the applicant; and
- (f) be accompanied by an authorisation of agent.

(2) If the application does not meet a requirement referred to in sub-regulation (1) ((a), (b), (c) or (d)), the Registrar must give to the applicant written notices of the requirement.

(3) If the applicant meets the requirement referred to in sub-regulation (2) within a period of 3 months from the date of the notice, the application is taken to be filed on the day on which the requirements is met.

(4) If the applicant does not meet the requirement referred to in sub-regulation (2) within the period referred to sub-regulation (3), the application is taken not to have been filed.

Representation of trade marks

8.— (1) If practicable, the representation of a trade mark included in an application for registration of the trade mark must not exceed 8 centimeters by 8 centimeters (3 inches by 3 inches).

(2) In an application for the registration of two or more trade marks as a series, the representation of each trade mark in the series must, if practicable, not exceed 8 centimetres by 8 centimetres (3 inches by 3 inches).

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(3) In an application for the registration of a trade mark that contains, or consists of, a 3 dimensional shape —

- (a) if practicable, the representation of the trade mark in the application must be illustrated in a perspective that shows each feature of the trade mark; and
- (b) otherwise, the representation of the trade mark in the application must include views of the trade mark that are necessary to show each feature of the trade mark.

(4) If the Registrar reasonably believes that the views of a trade mark to which sub-regulation (3) (a) or (b) applies are not sufficient to allow all features of the trade mark to be properly examined, the Registrar may, by notice in writing, require the applicant to give to the Registrar up to six additional views of the trade mark that show the features sufficiently to permit proper examination of the trade mark.

(5) If the representation of a trade mark in an application for registration of the trade mark includes words of a language other than English, the applicant must file in support of the application a translation of the words into English.

(6) If the representation of a trade mark in an application for registration of the trade mark includes characters constituting words, being characters that are not roman letters, the applicant must file in support of the application —

- (a) a transliteration of the characters into roman letters, using the recognised system of romanisation of the characters, if any; and
- (b) a translation of the words into English.

(7) If a trade mark for which registration is sought contains or consists of a sign that is a colour, shape, or an aspect of packaging, or any combination of those features, the application for registration of the trade mark must include a concise and accurate description of the trade mark.

(8) If the Registrar reasonably believes that the description or representation of a trade mark in an application for registration of the trade mark does not —

- (a) demonstrate the nature of the trade mark sufficiently; or

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(b) show each feature of the trade mark sufficiently;

to permit proper examination of the trade mark, the Registrar may require the applicant to give to the Registrar a description, or further description, of the trade mark and a specimen of the trade mark.

(9) If representation of a single trade mark exceeds, or the representations of the trade marks in a series of trade marks together exceed 8 centimetres by 8 centimetres (3 inches by 3 inches), the representation or representations —

(a) must be attached to the application for registration of the trade mark or trade marks; and

(b) shall be taken to be part of the application.

(10) The representation of a trade mark in an application for registration of the trade mark must be of a kind and quality that —

(a) ensures that the features of the trade mark will be preserved in the course of time; and

(b) is suitable for reproduction.

Specification of goods or services or both

9.— (1) For the purposes of section 11 (3) of the Act, the following sub-regulations set out the manner of specifying, in an application for the registration of a trade mark, the goods or services or both in respect of which registration is sought.

(2) The expression “all goods”, “all services”, “all other goods”, or “all other services” must not be used in an application for registration of a trade mark to specify the goods or services or both in respect of which registration is sought.

(3) The goods or services or both must be grouped according to the appropriate classes as detailed in the Nice Classification.

(4) The applicant must nominate the class number that is appropriate to the goods or services in each group.

(5) The groups must be listed in the order of their class numbers.

(6) The goods or services or both must, as far as practicable, be specified in terms appearing in any listing of goods and services that is —

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- (a) published by the World Intellectual Property Organisation in the Nice Classification; and
- (b) made available for inspection by the public at the Registry of Companies and Intellectual Property and its sub-offices.

(7) If any of the goods or services or both cannot be specified using terms referred to in sub-regulation (6), the applicant must provide sufficient information to enable the Registrar to decide the classification of the goods or services or both.

Period for claiming priority for an application

10. For the purposes of section 13(1) of the Act (which deals with claims for priority), the prescribed period in relation to a claim for a right of priority for an application is 6 months after filing the application.

How to claim priority

11.— (1) For the purposes of section 13(1) of the Act (which deals with claims for priority), an applicant must claim a right of priority for an application by filing notice of the claim.

(2) Any notice under sub-regulation (1) must specify, in respect of the earlier application or, if there is more than one earlier application, in respect of each earlier application —

- (a) the Convention country in which the earlier application was filed at the trade marks office, or its equivalent, of that Convention country; and
- (b) the date on which the earlier application was filed; and
- (c) if a number is allocated to the earlier application in the trade marks office, or its equivalent, of that Convention country, that number.

(3) If, as a result of a claim for a right of priority, more than one priority date applies in relation to an application, a person who claims a right of priority under section 13(1) of the Act must specify the goods or services or both to which each priority date relates.

Publication of particulars of application

12.— (1) For the purposes of section 14 of the Act (which deals with publishing particulars of applications), the Registrar must publish the following particulars of the application—

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- (a) if a number has been allocated to the application in the Registry of Companies and Intellectual Property – the number;
- (b) the applicant’s name;
- (c) the date of filing the application;
- (d) if the application is a divisional application – particulars of the initial application;
- (e) particulars of any claim for a right of priority for the application;
- (f) the class number or numbers for the goods or services or both in respect of which registration of the trade mark is sought.

(2) The particulars must be published in one, or more than one, of the following ways —

- (a) publication in the *Gazette*;
- (b) listing in a computer database maintained by the Registry of Companies and Intellectual Property;
- (c) making a record of the application available, in electronic or other form, in each of the sub-offices of the Registry of Companies and Intellectual Property .

Examination of application: report to applicant

13.— (1) For the purposes of section 15 of the Act (which deals with examination and reporting), if in the course of an examination of an application the Registrar reasonably believes that —

- (a) the application has not been made in accordance with the Act or these Regulations; or
- (b) there are grounds under Division 2 of Part 4 of the Act for rejecting it;

the Registrar must report that belief in writing to the applicant.

(2) A report under sub-regulation (1) must include notice of the date on which the application will lapse if it is not accepted earlier.

(3) If the Registrar reasonably suspects that the provisions of section 11(1) (b) of the Act do not apply in relation to all of the goods or services or both specified in an application for registration of a trade mark, the Registrar may require the applicant to make a declaration to

the Registrar that those provisions apply to all of those goods or services or both.

Examination: applicant's response to report

14.— (1) An applicant may respond in writing to the Registrar's report under regulation 13.

(2) The response may —

- (a) contest a belief of the Registrar that is expressed in the report; and
- (b) contest another matter that is mentioned in the report; and
- (c) provide further documents or evidence in support of the application; and
- (d) request that the application be amended in accordance with the Act.

Examination: further report to applicant

15.— (1) On receipt of a response under regulation 14, the Registrar must consider the response.

(2) If the Registrar continues to believe that —

- (a) the application has not been made in accordance with the Act or these Regulations; or
- (b) there are grounds under Division 2 of Part 4 of the Act for rejecting it;

the Registrar must report that belief in writing to the applicant.

(3) Unless acceptance of an application is deferred, a report under sub-regulation (2) in relation to that application must include notice of the date on which the application will lapse if it is not accepted earlier.

(4) Regulation 14 and this regulation apply to a report under sub-regulation (2) as if it were a report under regulation 13.

Examination: additional requirements

16.— (1) In the course of an examination of an application for which a right of priority is claimed, the Registrar may, in writing, require the applicant to file —

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- (a) a copy of any earlier application certified in the trade marks office, or its equivalent, of the Convention country in which it was filed; and
- (b) if the earlier application is not in English:
 - (i) a translation of the earlier application into English; and
 - (ii) a certificate of verification relating to the translation.

(2) If the applicant is the successor in title to the person who made the earlier application, the Registrar may, in writing, require the applicant to file documentary evidence that is sufficient to establish the passing of title to the applicant.

Periods after which applications lapse

17.— (1) For the purposes of section 21(1) of the Act (which deals with lapsing), the prescribed period, for an application in respect of which a report is made under regulation 13 is —

- (a) except as provided by paragraph (b), 12 months from the date of that report whether or not a further report is made under regulation 15; or
- (b) if a further report raises grounds under Division 2 of Part 4 of the Act for rejecting the application that were not raised in the report made under regulation 13, 12 months from the date of the further report,

(2) In determining the period of 12 months for the purposes of sub-regulation (1) (a) or (b) in relation to an application, no account is to be taken of a period in which acceptance of the application is deferred under regulation 18.

(3) An applicant may, before the end of a period prescribed in sub-regulation (1), or that period as extended under section 195 of the Act or as a result of a previous application of sub-regulation (4), request the Registrar in writing to extend the period.

(4) The Registrar must, in accordance with a request made under sub-regulation (3), extend a period, unless —

- (a) the period; or
- (b) that period as extended under section 195 of the Act or as a result of a previous application of this sub-regulation;

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would be extended for more than 6 months after the end of the relevant period prescribed in sub-regulation (1).

Deferment of acceptance

18.— (1) The Registrar may, at the request of the applicant in writing, defer acceptance of an application for registration of a trade mark, if—

- (a) the request is made within a period prescribed in sub-regulation 17 (1); and
- (b) the Registrar reasonably believes that there are grounds for rejecting the application under section 28 (1) or (2) of the Act because of another trade mark —
 - (i) that is registered by another person; or
 - (ii) in respect of which an application for registration has been made by another person; and
- (c) the applicant—
 - (i) is awaiting the finalization of proceedings in respect of the application for registration of the other trade mark; or
 - (ii) is seeking to satisfy the Registrar as to a matter mentioned in section 28 (3) (a) or (b) of the Act or as to the matters mentioned in section 28 (4) of the Act in relation to the applicant’s trade mark and the other trade mark; or
 - (iii) has filed an application under section 76 of the Act (which deals with the removal of trade marks), in respect of the other trade mark, and is awaiting the finalisation of proceedings in respect of that application; or
 - (iv) has begun proceedings to have the Register rectified in respect of the other trade mark and the proceedings have not been determined or otherwise disposed of; or
 - (v) is awaiting renewal of the registration of the other trade mark in the period of 12 months after registration of the other trade mark has expired, or removal of the other trade mark from the Register.

(2) The Registrar may, on his or her own initiative, defer acceptance of the application within a period that is prescribed in regulation 17(1) or that is extended under section 195 of the Act or regulation 17 (4), if—

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- (a) the time within which proceedings mentioned in paragraph (b) may be begun, or an application mentioned in paragraph (c) may be made, has not ended; or
 - (b) appeal proceedings under a provision of the Act have begun in a prescribed court in relation to the application; or
 - (c) the Registrar is informed in writing that the applicant has died.
- (3) The Registrar must notify an applicant in writing —
- (a) if the applicant requests the Registrar to defer acceptance of an application-of the Registrar’s decision to defer, or not to defer, acceptance of the application; and
 - (b) if the Registrar otherwise defers acceptance of an application of the provision under which acceptance of the application is deferred.

Period for which acceptance is deferred

19.— (1) The period for which acceptance of an application is deferred (in this regulation called “the deferment period”) begins immediately after the date of the notice of deferment issued under regulation 18 (3).

- (2) The deferment period ends —
- (a) when the application is withdrawn; or
 - (b) if paragraph (a) does not apply-when the Registrar is reasonably satisfied that there are no longer grounds for rejecting the application under section 28(1) or (2) of the Act; or
 - (c) if paragraphs (a) and (b) do not apply-in accordance with sub-regulation (3).
- (3) For the purposes of paragraph (2) (c), the deferment period ends—
- (a) if acceptance is deferred because of regulation 18(1) (c) (i), when proceedings relating to the registration of the other trade mark are finalised; and
 - (b) if acceptance is deferred because of regulation 18(1) (c) (ii), at the end of 6 months from the date of the notice of deferment; and

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- (c) if acceptance is deferred because of regulation 18 (1) (c) (iii), when proceedings under Part 9 of the Act in respect of the other trade mark are finalised; and
- (d) if acceptance is deferred because of regulation 18(1) (c) (iv), when the proceedings to have the Register rectified in respect of the other trade mark are determined or otherwise disposed of; and
- (e) if acceptance is deferred because of regulation 18 (1) (c) (v), when the registration of the other trade mark is renewed or the other trade mark is removed from the Register; and
- (f) if acceptance is deferred because of regulation 18 (2) (a), at the end of 2 months after the beginning of the period in which—
 - (i) proceedings mentioned in regulation 18 (2) (a) may be begun; or
 - (ii) an application mentioned in regulation 18 (2) (a) may be made; and
- (g) if acceptance is deferred because of regulation 18 (2) (b), at the end of—
 - (i) 3 months after the determination, or other disposal, of the proceedings or review; or
 - (ii) such time as the court to which any appeal is brought allows;
- (h) if acceptance is deferred because of regulation 18 (2) (c), at the end of a period after the death of the applicant that the Registrar reasonably regards as sufficient in the circumstances; and

(4) If acceptance of an application is deferred as a result of the operation of more than one of the provisions of regulation 18(1) (c) and regulation 18(2), the deferment period ends in accordance with the relevant provision of sub-regulation (3) under which the deferment period ends later or last, as the case requires.

- (5) The Registrar must notify the applicant in writing of —
 - (a) the end of a period of deferment; and
 - (b) if acceptance is deferred under regulation 18 (1), the last day of the relevant period prescribed by regulation 17(1) (a) or (b).

*Trade Marks Regulations***Trade marks containing etc. certain signs**

20.— (1) For the purposes of section 23 (2) (a) of the Act (which deals with signs), the signs in Schedule I are prescribed.

(2) A list of the marks mentioned in Schedule I must be available at the Registry of Companies and Intellectual Property and sub-offices.

Divisional applications

21. — (a) For the purposes of section 31 (2) of the Act (which deals with divisional applications), the period in relation to a divisional application for the registration of part of a trade mark is 6 months after filing the initial application for the registration of the trade mark.

(b) For the purposes of sections 33 (2) and (4) of the Act (which deal with divisional applications), the period in relation to a divisional application for the registration of the trade mark in respect of goods or services or both excluded from the initial application is 1 month from the date of the notice of the amendment of the initial application for the registration of the trade mark given under regulation 45.

Applications under Part 4

22. An Application under Part 4 Division 3 of the Act shall be in the form prescribed in Form 3 of Schedule 6.

Request for expedited examination of application

23.— (1) A person who applies, or has applied, for the registration of a trade mark —

(a) may request in writing expedited examination of the application; and

(b) must include with the request a declaration stating the reasons for the request.

(2) As soon as practicable after making a decision in relation to a request, the Registrar must give written notice of the decision to the person who made the request.

*Trade Marks Regulations***Expedited examinations**

24.— (1) The Registrar must, to the extent that is practicable, examine applications for the registration of trade marks in relation to which requests under regulation 23 are granted —

- (a) in the order in which the requests are filed; and
- (b) before examination of an application for registration of a trade mark in relation to which—
 - (i) a request under regulation 23 is not made; or
 - (ii) a request made under that regulation is not granted.

(2) In the absence of a request for expedited examination of an application for registration of a trade mark, the Registrar may expedite examination of the application if he or she reasonably believes that expedited examination is warranted.

(3) The relationship of an application mentioned in sub-regulation (2) to another application for registration of a trade mark is a relevant circumstance for the purposes of that sub-regulation.

PART 4**OPPOSITION TO REGISTRATION****Time for filing notice of opposition**

25.— (1) For the purposes of section 36 (2) of the Act (which deals with notice of opposition), the period for filing a notice of opposition is 3 months from the day on which the acceptance of the application is advertised in the *Gazette*.

(2) For the purposes of section 36 (2) of the Act, a notice of opposition shall be in the form as prescribed in Form 4 of Schedule 6.

(3) The opponent shall within 2 days after the service of the copy of the notice of opposition on the applicant file a statement setting out the date, place and manner of service on the applicant.

Extension of time for filing; grounds

26.— (1) A person may apply to the Registrar for an extension of time in which to file a notice of opposition.

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(2) An application for an extension of time may be made within the period for filing a notice of opposition referred to in regulation 25 on one, or more than one, of the following grounds and on no other ground —

- (a) an error or omission by a member of staff of the Registry of Companies and Intellectual Property;
- (b) an error or omission by the person applying for the extension of time, or by the person's agent;
- (c) circumstances beyond the control of the person applying for the extension of time;
- (d) the conduct of genuine negotiations between that person and the applicant for registration;
- (e) the undertaking of genuine research to decide —
 - (i) whether opposition is justified; or
 - (ii) on the grounds of opposition.

(3) If the period for filing a notice of opposition has ended, an application for extension of time may be made at any time before the trade mark is registered on one, or more than one, of the grounds set out in sub-regulation (2) (a), (b) or (c) and on no other ground.

Extension of time for filing: applications

27. An application for an extension of time in which to file a notice of opposition must —

- (a) be in writing; and
- (b) be accompanied by a declaration stating —
 - (i) the facts on which the grounds specified in the application are based; and
 - (ii) if the period for filing a notice of opposition has ended—the reason why the application was not made before the end of that period.

Extension of time for filing: grant of extension

28.— (1) Subject to sub-regulations (2) and (4), if the Registrar is reasonably satisfied as to the grounds set out in an application for an extension of time to file a notice of opposition, the Registrar must grant the extension of time.

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(2) The Registrar must not grant the extension of time, unless the Registrar—

- (a) is reasonably satisfied that the person applying for the extension of time has served a copy of the application, and the accompanying declaration, on the applicant for registration of the trade mark; and
- (b) has given to both the person applying for the extension of time and the applicant for registration of the trade mark a reasonable opportunity to make representations concerning the application for extension of time.

(3) For the purposes of sub-regulation (2) (b), the representations may be made in writing or at a hearing or by such other means as the Registrar reasonably allows.

(4) If an application for extension of time is made after the period for filing a notice of opposition has ended, the Registrar must not grant the extension unless the Registrar is reasonably satisfied that there is sufficient reason for the application not being made before the end of that period.

(5) An extension of time must be for such period —

- (a) in the case of an extension of time that is granted on a ground set out in regulation 26 (2) (a), (b) and (c), as the Registrar believes is reasonable; or
- (b) in the case of an extension of time that is granted on a ground set out in regulation 26(2) (d) and (e), not exceeding 3 months as the Registrar believes is reasonable.

Copy of earlier application to be available to opponent

29.— (1) In opposition proceedings relating to an application in respect of which the applicant claims a right of priority, an opponent may in writing ask the Registrar for a copy of an earlier application to be made available.

(2) On receipt of a request under sub-regulation (1), the Registrar must require in writing the applicant to file —

- (a) a copy of the earlier application certified in the trade marks office, or its equivalent, of the Convention country in which it was filed; and

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- (b) if the earlier application is not in English —
- (i) a translation of the earlier application into English; and
 - (ii) a certificate of verification relating to the translation.

(3) If the applicant is the successor in title to the person who made the earlier application, the Registrar may require in writing the applicant to provide documentary evidence that is sufficient to establish the passing of title to the applicant.

(4) Sub-regulation (2) does not apply if the applicant has already filed the documents mentioned in that sub-regulation.

(5) The Registrar must send a copy of the documents mentioned in sub-regulation (2) to the opponent.

Opposition proceedings

30. For the purposes of section 38 (2) of the Act (which deals with opposition proceedings), regulations 31 to 41 set out the procedure to be followed in dealing with an opposition after a notice of opposition is filed.

Evidence in support

31.— (1) If the opponent intends to rely on evidence in support of the opposition, the opponent must serve a copy of the evidence in support on the applicant within 3 months from the day on which the notice of opposition is filed.

(2) Within 2 days after the opponent serves a copy of the evidence in support on the applicant, the opponent must file with the Registrar —

- (a) the original evidence; and
- (b) a statement setting out the date, place and manner of service of the copy of the evidence on the applicant.

Notice that opponent will not rely on evidence in support

32.— (1) If the opponent does not intend to rely on evidence in support of the opposition, the opponent must, within 3 months from the day on which the notice of opposition is filed, serve on the applicant a copy of a notice stating that the opponent does not intend to rely on evidence in support of the opposition.

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(2) As soon as practicable after the opponent serves a copy of the notice on the applicant, the opponent must file with the Registrar —

- (a) the original notice; and
- (b) a statement setting out the date, place and manner of service of the copy of the notice on the applicant.

Failure to file

33. If the opponent does not file evidence in support under regulation 31 or the notice under regulation 32 or apply for extension so to do, the opponent shall be deemed to have abandoned his or her opposition.

Evidence in answer

34.— (1) If the applicant intends to rely on evidence in answer to the opposition, the applicant must serve a copy of the evidence in answer on the opponent within the period for service of a copy of that evidence under regulation 35.

(2) Within 2 days after the applicant serves a copy of the evidence in answer on the opponent, the applicant must file with the Registrar—

- (a) the original evidence; and
- (b) a statement setting out the date, place and manner of service of the copy of the evidence on the opponent,

Period for service of a copy of the evidence in answer

35. If the opponent complies with regulation 31 or 32, the period for service of a copy of the evidence in answer to the opposition is 3 months from the day on which the opponent serves on the applicant —

- (a) the copy of the evidence in support referred to in sub-regulation 31 (1); or
- (b) the copy of the notice referred to in sub-regulation 32 (1),

Notice that applicant will not rely on evidence in answer

36.— (1) If an applicant does not intend to rely on evidence in answer to the opposition, the applicant must serve on the opponent, within the period for service of a copy of the evidence in answer, a copy of a notice stating that the applicant does not intend to rely on evidence in answer to the opposition.

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(2) Within 2 days after the applicant serves a copy of the notice on the opponent, the applicant must file with the Registrar —

- (a) the original notice; and
- (b) a statement setting out the date, place and manner of service of the copy of the notice on the opponent.

Failure to file

37. If the applicant does not file evidence in answer under regulation 34 or the notice under regulation 36 or apply for extension of time so to do, he shall be deemed to have abandoned his or her application.

Evidence in reply to evidence in answer

38.— (1) If an opponent intends to rely on evidence in reply to the evidence in answer to the opposition, the opponent must serve a copy of the evidence in reply on the applicant within 3 months after the service on the opponent of a copy of the evidence in answer.

(2) Within 2 days after the opponent serves a copy of the evidence in reply on the applicant, the opponent must file with the Registrar —

- (a) the original evidence; and
- (b) a statement setting out the date, place and manner of service of the copy of the evidence on the applicant.

(3) This evidence must be confined to matters strictly in reply.

Notice that opponents will not rely on evidence in reply to evidence in answer and failure to file

39.— (1) If an opponent does not intend to rely on evidence in reply to the evidence in answer to the opposition, the opponent must serve on the applicant, within 3 months after the service on the opponent of a copy of the evidence in answer, a copy of a notice stating that the opponent does not intend to rely on evidence in reply to the evidence in answer to the opposition.

(2) Within 2 days after the opponent serves a copy of the notice on the applicant, the opponent must file with the Registrar —

- (a) the original notice; and

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(b) a statement setting out the date, place and manner of service of the copy of the notice on the applicant.

(3) If the opponent does not file evidence in reply to evidence in answer under regulation 38 or the notice under regulation (39) or apply for extension so to do, the evidence shall be deemed closed and opposition proceedings follow the normal course.

Hearing of opposition

40.— (1) Upon completion of the evidence, the applicant or opponent may ask the Registrar to hear the parties to the opposition proceedings.

(2) The Registrar must comply with a request made in accordance with sub-regulation (1).

(3) If an applicant or opponent in opposition proceedings may make a request to the Registrar under sub-regulation (1) and the request is not made, the Registrar may, on his or her own initiative, give an opportunity to the parties to the opposition proceedings to be heard in relation to those proceedings.

(4) The Registrar must give notice to the parties of a date when he or she will hear arguments in the opposition proceedings.

(5) The date under sub-regulation (4) must be a date at least 14 days after the date of the notice unless the parties consent to a shorter notice.

(6) Within 7 days from the receipt of the notice any party who intends to appear must so notify the Registrar in the form prescribed in Form 5 of Schedule 6.

(7) A party who receives notice as mentioned above and who does not, within 7 days from receipt thereof, notify the Registrar in accordance with sub-regulation (6) may be treated as not desiring to be heard and the Registrar may act accordingly.

Extension of period to serve evidence and service of further evidence

41. — (1) A party to the opposition proceedings may apply to the Registrar —

(a) for an extension of the period for serving a copy of the evidence under regulation 31, 35 or 38; or

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(b) for permission to serve a copy of further evidence on the other party.

(2) The Registrar may grant an application on reasonable terms specified by the Registrar.

(3) The Registrar must not grant an application unless the Registrar —

(a) is reasonably satisfied that the applicant has served a copy of the application, and of any documents accompanying the application, on the other party; and

(b) has given the parties a reasonable opportunity to make representations concerning the application; and

(c) is reasonably satisfied that —

(i) in the case of an application to which sub-regulation (1) (a) applies, the extension of the period for serving a copy of the evidence; and

(ii) in the case of an application to which sub-regulation (1) (b) applies—permission to serve a copy of further evidence; is appropriate.

(4) For the purposes of sub-regulation (3) (b), the representations may be made in writing or at a hearing or by such other means as the Registrar reasonably allows.

(5) If the Registrar grants an application under sub-regulation (1) (b) on terms that include service of a copy of the further evidence within a specified period, a party to the opposition proceedings may apply to the Registrar for an extension of that period.

(6) Sub-regulations (2), (3) and (4) apply to an application under sub-regulation (5).

Conduct of opposition proceedings generally

42.— (1) The Registrar may, at the request of a party to the opposition proceedings or on the initiative of the Registrar, give a direction in relation to the procedure in the proceedings.

(2) A direction given under sub-regulation (1) must not be inconsistent with these Regulations.

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- (3) The Registrar must not give a direction unless the Registrar—
- (a) is reasonably satisfied that parties to the proceedings have been notified of the proposed direction; and
 - (b) has given the parties a reasonable opportunity to make representations concerning the proposed direction; and
 - (c) is reasonably satisfied that the proposed direction is appropriate.

(4) For the purposes of sub-regulation (3) (b), the representations may be made in writing or at a hearing or by such other means as the Registrar reasonably allows.

Registrar to give notice of dismissal of proceedings

43. If opposition proceedings are dismissed under section 193 of the Act, which deals with security for costs, or discontinued, the Registrar must notify the parties in writing that the opposition proceedings have been dismissed or discontinued.

PART 5**AMENDMENT OF APPLICATION FOR REGISTRATION OF A
TRADE MARK AND OTHER DOCUMENT****Amendment of applications by Registrar**

44.— (1) For the purposes of section 47 (2) of the Act (which deals with amendment), if the Registrar proposes to amend an application for the registration of a trade mark, the Registrar must give notice in writing to the applicant —

- (a) setting out the proposed amendment and the reason for making the amendment; and
- (b) stating that the proposed amendment will be made at the end of a reasonable period stated in the notice, unless the applicant objects in writing to the amendment within that period, stating grounds for the objection.

(2) If an applicant objects to an amendment proposed by the Registrar within the period mentioned in sub-regulation (1) (b), the Registrar must not make the amendment unless the objection is withdrawn.

Request to amend before publication of details

45. For the purposes of section 48 (b) of the Act (which deals with amendments before publication), the period for requesting an

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amendment is 14 days after filing the application for the registration of the trade mark.

Filing of declarations

46. If a person requests an amendment under section 48 of the Act, (which deals with amendments before publication), or section 50 (a) of the Act, (which deals with amendment of other documents), the Registrar may require the applicant to file a declaration stating —

- (a) that a clerical error or obvious mistake was made in the application; and
- (b) the circumstances in which the error or mistake was made.

Notification of amendments

47. If the Registrar amends an application, notice or document under Part 6 of the Act, the Registrar must give notice in writing of the amendment to —

- (a) the person who requested the amendment; and
- (b) any other person that the Registrar thinks appropriate.

PART 6
REGISTRATION OF TRADE MARKS

Period in which a trade mark can be registered

48.— (1) For the purposes of section 52(1) of the Act (which deals with registration), the period for the registration of a trade mark that has been accepted for registration is —

- (a) except if paragraph (b) applies, the period from the beginning of the day on which the acceptance is advertised in the *Gazette* to the end of —
 - (i) the day that is 4 months after that day; or
 - (ii) if a later day is specified under sub-regulation (2) or (3) the day specified in that sub-regulation; and
- (b) in the case of the death of an applicant for registration of the trade mark, within 6 months of the date of death or within such further period as the Registrar reasonably allows.

(2) If —

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- (a) proceedings in relation to the registration of the trade mark before the High Court are not determined or otherwise disposed of; and
- (b) the High Court is satisfied that the registration of the trade mark cannot take place on or before the first-mentioned day in sub-regulation (1) (a) (i);

the High Court may specify for the purposes of sub-regulation (1) (a)(ii) a day that is later than the first-mentioned day in sub-regulation (1)(a) (i).

(3) If —

- (a) proceedings in relation to the registration of the trade mark are before the Registrar; and
- (b) the Registrar is reasonably satisfied that —
 - (i) the registration of the trade mark cannot take place on or before the first-mentioned day in sub-regulation (1) (a) (i); and
 - (ii) it is appropriate to do so;

the Registrar may specify, for the purposes of sub-regulation (1) (a) (ii), a day that is later than the first-mentioned day in sub-regulation (1) (a) (i).

Particulars to be entered in the Register

49. For the purposes of section 53 (2) (c) of the Act (which deals with particulars), the following other particulars of a trade mark must be entered in the Register —

- (a) if the trade mark is registered as a certification trade mark, a collective trade mark or a defensive trade mark-an indication to that effect;
- (b) the date of the registration;
- (c) the date on which the particulars of the registration are entered in the Register under section 53(1) of the Act;
- (d) the particulars of any right of priority claimed under section 13 of the Act;
- (e) the filing date of the initial application on which any divisional application is based;
- (f) any number allocated to the initial application for registration of the trade mark;

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- (g) the class numbers of the goods or services or both in respect of which the trade mark is registered;
- (h) the address of the owner of the trade mark;
- (i) the name and address of the authorised agent;
- (j) any other particulars relating to the trade mark that the Registrar reasonably believes to be appropriate.

Period for request for renewal

50.— (1) For the purposes of section 59 of the Act (which deals with requests for renewal), the period within which a person may request the Registrar to renew the registration of a trade mark is 6 months ending on the day on which the registration of the trade mark expires.

(2) A request renewal pursuant to section 59 shall be as prescribed in Form 7 of Schedule 6.

Notice of renewal due-: when and how given

51.— (1) For the purposes of section 60 of the Act (which deals with notice of renewal date), the period in relation to notifying a registered owner that renewal of the registration of a trade mark is due is within 3 months ending on the day on which the registration of the trade mark expires.

(2) A notice that the renewal is due must include —

- (a) a statement of the date on which the registration of the trade mark will expire; and
- (b) a statement of any fee payable.

Notice of renewal

52. For the purposes of section 61 (2) of the Act (which deals with renewal), a notice of the renewal of the registration of a trade mark must include —

- (a) a statement that the registration is renewed; and
- (b) the period for which it is renewed.

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PART 7

AMENDMENT AND CANCELLATION OF REGISTRATION

Notice of cancellation

53.— (1) The Registrar must, after receiving a request from the owner of a registered trade mark under section 68 (1) of the Act (which deals with cancellation of registration), cancel registration of the trade mark if the Registrar is not obliged under subsection 68 (2) of the Act to notify a person.

(2) If the Registrar must notify a person under that subsection, the notice must state that unless —

- (a) the request from the owner is sooner withdrawn; or
- (b) a prescribed court determines that the Registrar must not cancel registration of the trade mark;

the Registrar will cancel the trade mark at the end of a period of 2 months from the date of the notice.

(3) If —

- (a) before the end of the period of 2 months, each person who is notified advises the Registrar in writing that the person does not object to cancellation of registration of the trade mark—the Registrar must cancel registration of the trade mark; or
- (b) paragraph (a) does not apply—the Registrar must cancel registration of the trade mark after the end of that period;

unless the request from the owner is withdrawn or a prescribed court determines otherwise.

Amendment or cancellation-matters for the court

54. For the purposes of section 73 (2) (a) of the Act (which deals with amendment or cancellation by the High Court), the High Court, in making a decision under section 73 (1) of the Act on an application for rectification of the Register, must take into account the following matters, so far as they are relevant —

- (a) the extent to which the public interest will be affected if registration of the trademark is not cancelled;
- (b) whether any circumstances that gave rise to the application have ceased to exist;

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- (c) the extent to which the trade mark distinguished the relevant goods or services or both before the circumstances giving rise to the application arose;
- (d) whether there is any order or other remedy, other than an order for rectification, that would be adequate in the circumstances.

PART 8

REMOVAL OF TRADE MARK FROM REGISTER FOR NON-USE

Applications for removal etc.

55. For the purposes of section 76 (2) (a) of the Act (which deals with applications for removal of trade marks), an application for the removal of a trade mark from the Register —

- (a) shall be in the form prescribed in Form 9 of Schedule 6; and
- (b) must be accompanied by a declaration made by, or on behalf of, the applicant —
 - (i) stating that an inquiry into the use of the trade mark has been conducted by, or on behalf of, the applicant; and
 - (ii) setting out the findings of that inquiry that support either or both of the grounds for the application referred to in section 76 (4) of the Act.

Notification of applications

56.— (1) For the purposes of section 79 (1) of the Act (which deals with notification), the Registrar must give notice of an application under section 76 of the Act within 1 month after the application is filed in accordance with these Regulations.

(2) The notice must be given by sending a copy of the application, and the accompanying declaration, to each person who, in the opinion of the Registrar, needs to know that the application has been filed.

Notice of opposition to removal

57.— (1) For the purposes of section 80 (2) of the Act (which deals with notice of opposition), a notice of opposition to an application under section 76 of the Act shall be in the form prescribed in Form 4 of Schedule 6 and must be filed with the Registrar within 3 months from the day on which the application is advertised in the *Gazette*.

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(2) The opponent must serve a copy of the notice of opposition on the applicant as soon as practicable after the notice is filed.

Opposition proceedings before the Registrar

58.— (1) For the purposes of section 83 of the Act (which deals with opposition proceedings), regulations 31 to 41 inclusive apply, subject to sub-regulations (2) and (3), to an opposition to an application under section 76 of the Act.

(2) The Registrar must, if asked to do so by the opponent within the period for serving —

- (a) a copy of the evidence in support under regulation 31(1); or
- (b) a copy of the notice under regulation 32(1);

hear the parties to the opposition proceedings.

(3) If the opponent —

- (a) does not serve a copy of the evidence in support in accordance with regulation 31 (1); or
- (b) serves a copy of a notice under regulation 32(1); or
- (c) does not serve a copy of that notice within the time allowed in sub-regulation 31(1) or 32(1) as the case may be;

and the opponent does not request a hearing under sub-regulation (2), the opposition proceedings are taken to have ended, but are not taken to have been discontinued or dismissed.

(4) If —

- (a) under sub-regulation (3) opposition proceedings are taken to have ended, but are not taken to have been discontinued or dismissed; and
- (b) the Registrar is satisfied that the grounds on which the opposed application was made have been established;

the Registrar must determine the application in accordance with section 85 of the Act.

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PART 9

ASSIGNMENT AND TRANSMISSION OF TRADE MARKS

Applications for assignment etc. to be recorded or entered

59. For the purposes of sections 91 and 93 of the Act (which deal with assignment and transmission), the following documents are prescribed —

- (a) a document that establishes the title to a trade mark of the assignee, or of the person to whom the trade mark has been transmitted; or
- (b) evidence of the assignment or transmission of a registered certification trade mark; and
- (c) Form 10 of Schedule 6.

Recording of assignment etc.: trade marks not registered

60.— (1) For the purposes of section 92 (1) (a) of the Act (which deals with assignment and transmission), the Registrar must record particulars of the assignment or transmission of a trade mark in accordance with this regulation unless —

- (a) the application to assign or transmit the trade mark is withdrawn; or
- (b) a prescribed court determines otherwise.

(2) If there is no record made under Part 11 of the Act of a person claiming an interest in, or a right in respect of, the trade mark, the Registrar must record the particulars after ascertaining that a claim has not been recorded.

(3) If —

- (a) there is a record made under Part 11 of the Act of a person, or persons, claiming an interest in, or a right in respect of, the trade mark; and
- (b) the Registrar has notified that person, or each of those persons, under regulation 63 (1); and
- (c) that person or each of those persons has, within the period of 2 months from the date of the notice mentioned in paragraph (b), given written notice to the Registrar consenting to the assignment or transmission;

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the Registrar must record the particulars after the Registrar has received the last notice consenting to the assignment or transmission.

- (4) If —
- (a) paragraphs (3) (a) and (b) apply; and
 - (b) the person, or any of the persons, notified by the Registrar under sub-regulation 63 (1) has not consented in writing to the assignment or transmission of the trade mark within the period of 2 months from the date of the notice;

the Registrar must record the particulars as soon as practicable after the end of that period.

Particulars of recorded assignment or transmission to be published

61. For the purposes of section 92 (1) (b) of the Act (which deals with assignment and transmission) —

- (a) the following particulars of an assignment or transmission of a trade mark for which registration is sought must be published—
 - (a) if a number has been allocated in the Registry of Companies and Intellectual Property to the application for registration of the trade mark—the number;
 - (ii) the name of the person to whom the trade mark is recorded as having been assigned or transmitted;
 - (iii) the day on which the particulars of the assignment or transmission were recorded; and
- (b) if details of an application for registration of the trade mark have been published in a way described in regulation 12 (2), the particulars of the assignment or transmission mentioned in paragraph (a) must be published in the same way.

Recording of assignment etc. of registered trade marks

62.— (1) For the purposes of section 94 (1) (a) of the Act (which deals with recording of assignment and transmission), the Registrar must record particulars of the assignment or transmission of a trade mark in accordance with this regulation, unless—

- (a) the application to assign or transmit the trade mark is withdrawn; or
- (b) a prescribed court determines otherwise.

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(2) If there is no record made under Part 11 of the Act of a person claiming an interest in, or a right in respect of, the trade mark, the Registrar must record the particulars in the Register after ascertaining that a claim has not been recorded.

(3) If —

- (a) there is a record made under Part 11 of the Act of a person, or persons, claiming an interest in, or a right in respect of, the trade mark; and
- (b) the Registrar has notified that person, or each of those persons, under sub-regulation 63 (1); and
- (c) that person or each of those persons has, within the period of 2 months from the date of the notice mentioned in paragraph (b), given written notice to the Registrar consenting to the assignment or transmission;

the Registrar must record the particulars in the Register after the Registrar has received the last notice consenting to the assignment or transmission.

(4) If —

- (a) paragraphs (3) (a) and (b) apply; and
- (b) the person, or any of the persons, notified by the Registrar under sub-regulation 63 (1) has not consented in writing to the assignment or transmission of the trade mark within the period of 2 months from the date of the notice;

the Registrar must record the particulars in the Register as soon as practicable after the end of that period.

Notice to persons recorded as claiming right or interest in trade marks

63.— (1) For the purposes of section 95 of the Act, the Registrar must give notice in writing to a person recorded under Part 11 of the Act as claiming an interest in, or a right in respect of, a trade mark stating that the Registrar will record the assignment or transmission of the trade mark at the end of a period of 2 months from the date of the notice, unless —

- (a) the application to assign or transmit the trade mark is withdrawn;
or
- (b) a prescribed court determines otherwise; or

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(c) each person to whom the Registrar must give notice under this sub-regulation has already notified the Registrar in writing that the person consents to the assignment or transmission.

(2) Each notice under sub-regulation (1) in respect of a particular trade mark must be given on the same day.

PART 10**VOLUNTARY RECORDING OF CLAIMS TO INTERESTS IN AND RIGHTS IN RESPECT OF TRADE MARKS****Amendment of particulars: claimed interests or rights**

64.— (1) For the purposes of sections 99 and 103 of the Act (which deal with amendment and cancellation of particulars), particulars of a claim to an interest in, or to a right in respect of, a trade mark other than the name, address or address for service of a person whose claim is recorded or entered in the Register or recorded under Division 3 of Part 11 of the Act may be amended in accordance with this regulation.

(2) A request to amend particulars of a claim to an interest in, or to a right in respect of, a trade mark must be made in writing —

- (a) together by the person whose claim is recorded and the owner of the trade mark; or
- (b) if the request has with it the written consent to the amendment of one of the persons mentioned in paragraph (a), by the other person mentioned in that paragraph.

(3) If a request is made in accordance with sub-regulation (2), the Registrar must amend the particulars in accordance with the request.

Amendment of name, address and address for service: claims not in the Register

65. If a person —

- (a) whose claim to an interest in, or to a right in respect of, a trade mark for which registration is sought is recorded; and
- (b) whose name, address or address for service has changed since the claim was recorded;

gives notice in writing of the new name or address to the Registrar, the Registrar must amend the record accordingly.

*Trade Marks Regulations***Cancellation of particulars; claimed interests or rights**

66.— (1) For the purposes of sections 99 and 103 of the Act (which deal with amendment and cancellation of particulars), particulars of a claim to an interest in or to a right in respect of, a trade mark, entered in the Register or recorded under Division 3 of Part 11 of the Act may be cancelled in accordance with this regulation.

(2) A request to cancel particulars of a claim to an interest in, or to a right in respect of, a trade mark must be made in writing —

- (a) by the person whose claim is recorded; or
- (b) by the owner of the trade mark; or
- (c) together by the person whose claim is recorded and the owner of the trade mark; or
- (d) if the request has with it the written consent to the cancellation of one of the persons mentioned in paragraph (c) by the other person mentioned in that paragraph.

(3) If a request is made under sub-regulation (2) (a), (c) or (d), the Registrar must cancel the particulars in accordance with the request.

(4) If a request is made under sub-regulation (2) (b), the Registrar must notify in writing the person whose claim is recorded that —

- (a) the request has been made; and
- (b) unless the request is withdrawn or a prescribed court orders otherwise, the Registrar will cancel particulars of the claim in accordance with the request as soon as practicable after the end of a period of 2 months from the date of the notice.

(5) Unless a request made under sub-regulation (2) (b) is withdrawn or a prescribed court determines otherwise, the Registrar must, as soon as practicable —

- (a) if, before the end of the period mentioned in sub-regulation (4) (b), a person the particulars of whose claim are recorded informs the Registrar in writing that the person does not object to cancellation of the particulars-cancel the particulars in accordance with the request; or
- (b) if paragraph (a) does not apply-cancel the particulars after the end of that period in accordance with the request.

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PART 11

IMPORTATION OF GOODS INFRINGING SAINT LUCIAN TRADE MARKS

Notice of objection to importation: accompanying documents

67. For the purposes of section 115 (1) of the Act (which deals with notice of objection), the document prescribed in relation to a notice given under that subsection, is Form 12.

Notice of objection to importation: authorised users

68.— (1) For the purposes of section 115 (3) of the Act (which deals with notice of objection), the period in relation to a request by an authorised user under section 115 (2) of the Act is 2 months from the date on which the request is made.

(2) For the purposes of section 115 (3) of the Act, the following documents are prescribed —

- (a) a copy of the certificate of registration of the trade mark certified by the Registrar as being a true copy and issued no more than two (2) months before the date of the notice given under section 115 (1) of the Act; and
- (b) documents that establish that —
 - (i) the authorised user has the power to give a notice of objection under section 115(1) of the Act;
 - (ii) the registered owner was asked to give the notice;
 - (iii) since the request mentioned in section 115(2) was made, the period prescribed by sub-regulation (1) in relation to the request has ended.

Period for compliance with Comptroller's request for information etc.

69. For the purposes of section 126 of the Act (which deals with giving information to the Comptroller), the period for complying with a request under section 126 (1) of the Act is 10 working days from the date on which the request is made.

PART 12

CERTIFICATION TRADE MARKS

Copy of rules to be filed

70. For the purposes of section 152(1) of the Act (which deals with rules governing use), an applicant for registration of a certification trade

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mark must file a copy of the rules governing the use of the certification trade mark at, or as soon as practicable after, the time of filing of the application.

Applications to vary rules

71.— (1) For the purposes of section 155 (1) of the Act (which deals with the variation of rules), the registered owner of a certification trade mark may apply to the Registrar to approve a variation of the rules governing the use of the certification trade mark.

(2) An application to approve the variation of the rules governing the use of a registered certification trade mark must —

- (a) be in writing; and
- (b) have with it a copy of the rules governing the use of the registered certification trade mark that incorporates the proposed variation, highlighting the variations.

Assignment of registered certification trade marks

72.— (1) An application to the Registrar for his or her consent to the assignment of a registered certification trade mark must —

- (a) be made by the registered owner of the certification trade mark; and
- (b) state the name, address, and address for service of the prospective assignee; and
- (c) state whether the prospective assignee proposes to continue after assignment to apply the same rules governing use of the registered certification trade mark that the registered owner of the trade mark applies; and
- (d) if the prospective assignee does not propose to continue to apply those rules —
 - (i) state any variation of the rules that the prospective assignee proposes to apply after assignment; and
 - (ii) have with it a copy of the rules incorporating the proposed variation that the prospective assignee proposes to apply after assignment.

(2) In considering an application, the Registrar must have regard to the following matters —

Trade Marks Regulations

- (a) whether the prospective assignee, or any prospective approved certifier within the meaning of section 152 (2) (a) of the Act, is competent to certify the goods or services or both in respect of which the certification trade mark is registered;
- (b) if the prospective assignee does not propose after the assignment to continue to apply the same rules governing use of the registered certification trade mark as the registered owner of the trade mark applies-whether, if the application were an application to approve the variation of those rules that the prospective assignee proposes to vary after the assignment, the application would be approved by the Registrar.

PART 13

DEFENSIVE TRADE MARKS

Evidence in support of applications

73. An applicant for registration of a defensive trade mark must file evidence in support of the application at, or as soon as practicable after, the time of filing of the application.

PART 14

ADMINISTRATION

Registry and sub-offices-business hours

74. The hours of business of the Registry of Companies and Intellectual Property and each sub-office of the Registry of Companies and Intellectual Property are from 9 a.m. to 2 p.m. Monday to Thursday and 9 a.m. to 3 p.m. on Friday, other than a public holiday, or such other hours as the Companies and Intellectual Property (Registry) Act may provide.

Delegates the Registrar

75. For the purposes of section 177(1) of the Act —

- (a) persons employed in, holding or performing the duties of offices in the Registry of Companies and Intellectual Property that are set out in Schedule 2 are prescribed persons or prescribed public officers.

*Trade Marks Regulations*PART 15
MISCELLANEOUSDivision 1
*Applications and other documents***Compliance with instructions on approved forms****76.** If —

- (a) an application, notice or request under the Act or these Regulations is required to be in an approved form; and
- (b) a blank form that may be used in making an application or request or giving notice —
 - (i) is supplied by the Registrar; and
 - (ii) contains directions about completing that form; the person who completes the form must comply with those directions.
- (c) where a blank form is not obtained from the Registrar, the form used must conform as closely as possible to the prescribed or approved form.

Filing of documents: requirements as to form

77.— (1) A document to be filed at the Registry of Companies and Intellectual Property must comply with the requirements set out in Schedule 3.

(2) If the document does not comply with the requirements in Schedule 3, the Registrar may return the document to the person from whom it was received with a statement setting out the requirements that have not been complied with and stating a period within which the requirements must be complied with.

(3) A document may be filed by facsimile transmission —

- (a) if no fee is payable on filing the document; or
- (b) if a fee is payable on filing the document-if the document is accompanied by —
 - (i) documentary evidence that the fee has been paid; or
 - (ii) written authorisation of the payment.

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(4) If a document is filed by a person by facsimile transmission, the Registrar shall require the person to file the original document from which the facsimile was transmitted.

Filing of documents: common requirements

78.— (1) A person who files an application, notice or request must include in the application, notice or request the business or residential address of —

- (a) the attorney-at-law making the application or request or giving the notice; and
- (b) the person on whose behalf the application, notice or request is made.

(2) If an address recorded in the Register or included in an application, notice or request that is filed changes, the person whose address changes, or a person acting on behalf of that person, must notify the Registrar of the new address as provided for in Regulation 86.

(3) If the Registrar is notified of a new address, the Registrar must amend the Register, application, notice or request accordingly.

(4) An application, notice or request that is to be filed must be signed by an attorney-at-law on behalf of the person making the application or request, or giving the notice, and dated by the signatory.

Filing of documents: treatment of non-complying documents

79. If a document received for filing at the Registry of Companies and Intellectual Property fails to comply with the Act or these Regulations, the Registrar may —

- (a) treat the document as not having been filed at the Registry of Companies and Intellectual Property; or
- (b) treat the document as having been filed, but require the person who filed the document to make, or cause to be made, any alterations to the document that are necessary to enable the document to so comply.

Filing of documents: date of receipt to be marked

80.— (1) A document that is received for filing must be marked by the Registrar with the date on which it is received.

Trade Marks Regulations

(2) If the Registry of Companies and Intellectual Property or a sub-office provides a facility for the receipt of documents (other than documents filed electronically or by facsimile transmission), when the Registry of Companies and Intellectual Property or sub-office is not open to the public for business, a document received by means of that facility is taken to have been received on the day on which the Registry of Companies and Intellectual Property or sub-office was last open to the public for business before the document was received.

(3) Except as otherwise provided by the Act or these Regulations, a document is taken to be filed at the Registry of Companies and Intellectual Property on the date on which it is received by the Registry of Companies and Intellectual Property.

Declarations

81.— (1) In this regulation —

“diplomatic or consular officer” means a person who holds any of the following offices of the State in a country other than Saint Lucia —

- (a) ambassador;
- (b) high commissioner;
- (c) minister;
- (d) charge d’affaires;
- (e) counsellor or second or third secretary at an embassy, high commission or other post;
- (f) consul-general;
- (g) consul;
- (h) vice-consul;
- (i) Secretary of State.

(2) A declaration required by the Act or these Regulations must —

- (a) be headed with the title of the matter in respect of which the declaration is made; and
- (b) be expressed in the first person; and
- (c) state —

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- (i) the name and address of the declarant; and
 - (ii) if the declaration is made on behalf of another person the name and address of the other person; and
- (d) if the declaration is made for the purposes of a business the details of which are set out in the declaration-state —
- (i) the office or position held by the person by whom the declaration is made; and
 - (ii) the address of the place where the business is conducted or principally conducted; and
- (e) be divided into paragraphs, each of which must be numbered consecutively and, as far as practicable, be confined to one subject.
- (3) A declaration may be made before —
- (a) a magistrate; or
 - (b) a justice of the peace; or
 - (c) a commissioner of affidavits; or
 - (d) a commissioner for declarations; or
 - (e) a notary royal; or
 - (f) a notary public; or
 - (g) a patent attorney; or
 - (h) a person before whom a statutory declaration may be made under the Statutory Declarations Ordinance Cap. 118, Revised Laws of Saint Lucia 1957 or the law of the State, Territory or foreign country where the declaration is made; or
 - (i) a diplomatic or consular officer.

(4) The name and title of the person before whom the declaration is made and the date when, and the place where, it was made must be stated in the declaration.

Declarations: additional material

82.— (1) If—

- (a) a person is required by the Act or these Regulations to file a declaration or serve a copy of the declaration; and

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- (b) it is not practicable to include in, or attach to, the declaration or copy any material to which the declaration refers; the person must file or serve the material to which the declaration refers, or a copy of the material, at the same time as the declaration or as soon as practicable after that time.

(2) A declaration is not taken to have been filed or served until any material to which the declaration refers, or any copy of the material, is filed or served.

Notification of service

83. A person who is required by the Act or these Regulations to serve a document on another person must, as soon as practicable after the document is served, notify the Registrar in writing of the date, place and manner of service.

Notice of withdrawal of applications etc.

84.— (1) For the purposes of section 185 of the Act (which deals with withdrawal of applications, notices and requests) —

- (a) a person who has filed an application, notice or request; or
- (b) another person in whom the right or interest in reliance on which the application, notice or request was filed has become vested;

may withdraw the application, notice or request by giving notice in writing of the withdrawal to the Registrar.

(2) If —

- (a) the application, notice or request was filed by, or on behalf of, more than one person; or
- (b) the right or interest mentioned in paragraph (1) (b) has become vested in more than one person;

the notice of withdrawal must be signed by an agent on behalf of each of those persons.

(3) If a person mentioned in paragraph (1) (b) withdraws an application, notice or request, the Registrar may require, in writing, that person to file documentary evidence that is sufficient to establish that the right or interest mentioned in that paragraph is vested in the person.

Withdrawal of application etc.: Registrar's notice to applicants

85. If an application, notice or request is withdrawn in accordance with regulation 84, the Registrar must notify in writing the person or his attorney-at-law of the withdrawal and record the fact of the withdrawal in a manner deemed appropriate.

Change of address for service: notice to interested persons

86.— (1) A person —

- (a) who has filed an application, notice or request stating an address; and
- (b) who notifies the Registrar of another address for the purposes of section 186 (1) (b) of the Act (which deals with address for service) or any other purpose;

must give a copy of the notification to any party to proceedings relating to the application, notice or request and to any other person as directed by the Registrar.

(2) For the purposes of section 186 a request for a change of address of service shall be in the form prescribed in Form 21 of Schedule 6.

Division 2*Proceedings before the Registrar***Applications for costs**

87.— (1) For the purposes of section 192 of the Act (which deals with costs), a party to proceedings before the Registrar may apply to the Registrar in the form prescribed in Form 25 of Schedule 6 for an award of costs in relation to the proceedings.

(2) An application must be made —

- (a) during the proceedings; or
- (b) within 3 months from:
 - (i) the date on which the Registrar makes a decision in the proceedings that ends those proceedings; or
 - (ii) the date of the Registrar's notice to the party that the proceedings have been discontinued or dismissed;

as the case requires.

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(3) Before awarding costs in respect of the proceedings, the Registrar must give each party to the proceedings a reasonable opportunity to be heard in relation to the award of costs.

(4) If a bill of costs is filed in relation to the proceedings, the bill of costs must be filed within 3 months from the date on which the costs are awarded.

Determination of costs

88.— (1) In this regulation, “costs” does not include the costs referred to in section 89 (2) (b) of the Act.

(2) For the purposes of section 192 of the Act (which deals with costs), costs may only be awarded in respect of a matter set out in Schedule 4.

(3) The amount of costs must be taxed, allowed and certified by a trade marks officer appointed by the Registrar for that purpose, in accordance with —

- (a) in the case of an item in Part 1 of Schedule 4, the amount specified in that item; or
- (b) in the case a matter set out in a clause in Part 2 of Schedule 4 that clause.

(4) The Registrar may review the taxation of costs by a trade marks officer.

Conduct of proceedings generally

89.— (1) The Registrar may, at the request of a party to proceedings before the Registrar, other than opposition proceedings, give directions in relation to the procedure in the proceedings.

(2) Directions given under sub-regulation (1) must not be inconsistent with these Regulations.

(3) The Registrar must not give directions under sub-regulation (1) unless the Registrar —

- (a) is reasonably satisfied that any person affected by the proposed directions has been notified of the proposed directions;

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- (b) has given any person affected a reasonable opportunity to make representations concerning the proposed directions; and
- (c) is reasonably satisfied that the proposed directions are appropriate.

(4) For the purposes of sub-regulation (3) (b), representations may be made in writing or at a hearing or by such other means as the Registrar reasonably allows.

(5) Subject to these Regulations, the Registrar may determine the procedure to be followed in proceedings before the Registrar.

Hearings by Registrar

90.— (1) This regulation applies if the Act or these Regulations provide for a person to be heard by the Registrar.

(2) A request for a hearing by the Registrar must be in the form prescribed in Form 26 of Schedule 6.

(3) On request, or on his or her own initiative, the Registrar may —

- (a) fix a time, date and place for the hearing; and
- (b) give the parties to the hearing at least 10 days' notice in writing of the hearing and of the time, date and place fixed for the hearing.

(4) A party must, as soon as practicable after being notified of the hearing, inform the Registrar in writing as to whether the party wants to be heard.

(5) A party may attend a hearing in person or by such means as the Registrar reasonably allows.

(6) A party may make representations in writing before or during a hearing.

(7) A hearing must be conducted with as little formality and technicality, and with as much expedition, as the requirements of the Act and these Regulations and a proper consideration of the matters before the Registrar, allow.

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(8) The Registrar is not bound by the rules of evidence but may inform himself or herself on any matter that is before him or her in any way that the Registrar reasonably believes to be appropriate.

(9) The Registrar may adjourn a hearing by notifying each party to the hearing accordingly.

(10) Subject to these Regulations, the Registrar may give a direction that is reasonably necessary for the conduct of the hearing.

Registrar not required to hold hearings

91.— (1) The Registrar is not required to proceed to hear a matter if —

- (a) the Registrar reasonably believes that no party wishes to be heard in the matter; or
- (b) at least one of the following circumstances applies in relation to each party notified of the hearing under sub-regulation 90 (3):
 - (i) the party has not indicated to the Registrar that the party wishes to be heard
 - (ii) the party has informed the Registrar that the party does not wish to be heard; or
 - (iii) the party does not attend the hearing.

(2) The Registrar may decide a matter to which sub-regulation (1) refers —

- (a) without a hearing; and
- (b) by reference to relevant information about the matter that is held in the Registry of Companies and Intellectual Property.

Evidence in proceedings

92.— (1) Evidence that is given in writing in any proceedings before the Registrar must be in the form of a declaration.

(2) The Registrar may require a person who has made a declaration that is filed in the proceedings to attend before the Registrar to give evidence orally on oath or affirmation instead of, or in addition to, the evidence contained in the declaration.

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(3) The Registrar may permit a party to cross-examine a person who attends under sub-regulation (2).

Documents not in English

93. If a document that is filed as evidence in proceedings before the Registrar is not in English, the party who files the document must file with it —

- (a) a translation of the document into English; and
- (b) a certificate of verification in relation to the translation.

Registrar may use information available

94.— (1) If —

- (a) information that is available to the Registrar is relevant to proceedings before the Registrar; and
- (b) the Registrar has reason to believe that the information is not known to a party to the proceedings; and
- (c) the Registrar proposes to take the information into account in making a decision in the proceedings; before making the decision the Registrar must —
 - (i) provide the information to the party; and
 - (ii) give the party a reasonable opportunity to make representations about the information.

(2) For the purposes of sub-regulation (1)(c)(ii), the representations may be made in writing or at a hearing or by such other means as the Registrar reasonably allows.

Statements of reason for decision

95.— (1) If—

- (a) the Registrar notifies a party to proceedings before the Registrar of a decision of the Registrar in the proceedings; and
- (b) the party requests the Registrar in writing for the reasons for the decision;

the Registrar must comply with the request.

(2) A request for reasons pursuant to sub-regulation (1) shall be in the form prescribed in Form 24 of Schedule 6.

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Division 3

*General***What fees are payable**

96. For the purposes of section 194 (1) of the Act (which deals with fees), the fees specified in column 3 of an item in Schedule 5 are payable in respect of a matter specified in column 2 of that item.

How fees are to be paid

97.— (1) For the purposes of section 194 (2) of the Act (which deals with payment of fees), a fee, other than a fee payable under Part 13 of the Act, must be paid to the Registrar at the Registry of Companies and Intellectual Property or at a sub-office of the Registry of Companies and Intellectual Property.

(2) A fee payable under Part 13 of the Act must be paid to the Comptroller.

(3) A fee must be paid in accordance with a direction given —

(a) in the case of a fee that is paid to the Registrar by the Registrar;
and

(b) in the case of a fee that is paid to the Comptroller by the Comptroller; as to the way in which it is to be paid.

Notice of non-payment of fee

98. For the purposes of section 194 (5) of the Act (which deals with non-payment of fees), the Registrar or the Comptroller must notify in writing the person concerned, or his or her agent, that the fee has not been paid, within 14 days after the doing of the act, or the filing of the document, for which the fee is payable.

Refunds etc, of fees

99.— (1) If, because of an error or omission by a trade marks officer, a person becomes liable to pay a fee for which the person would not otherwise have been liable, the Registrar may —

(a) remit the whole or part of the fee; or

(b) if the fee has been paid-refund the whole or part of the fee to that person, after obtaining approval or the consent of the Accountant General.

Extension of time: application

100. For the purposes of section 195 (2) and (3) of the Act (which deal with extensions of time), an application for an extension of time for doing a relevant act —

- (a) must be in the form prescribed in Form 23 of Schedule 6; and
- (b) must be accompanied by a declaration stating—
 - (i) the facts on which the grounds specified in the application are based; and
 - (ii) if the period for doing the relevant act has ended—the reason why the application was not made before the period ended.

Extension of time: notice of opposition

101.— (1) For the purposes of section 195 (6) of the Act (which deals with opposition to an extension), a person may oppose an application for an extension of time for more than 3 months by filing a notice of opposition with the Registrar.

- (2) A notice of opposition—
 - (a) must be in writing; and
 - (b) must be filed within one month after notice of the application for an extension of time is published in the *Gazette*.
- (3) The opponent must serve a copy of the notice on the applicant.

Extension of time: opposition proceedings

102. For the purposes of section 195 (6) of the Act (which deal with opposition to an extension), regulations 31 to 39 inclusive apply to an opposition to an application for an extension of time.

Extension of time-prescribed acts and documents

103.— (1) For the purposes of paragraph (a) of the definition of “relevant act” in section 195 (8) of the Act, the following acts are prescribed —

- (a) complying with the requirements of regulation 7(1);
- (b) claiming a right of priority for an application for the registration of a trade mark under section 13(1) of the Act;

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- (c) making a divisional application for the registration of a part of a trade mark under section 31 (2) of the Act;
- (d) making a divisional application for the registration of a trade mark under section 33 (2) of the Act;
- (e) making a divisional application for the registration of a trade mark under section 33 (4) of the Act;
- (f) serving a copy of the evidence under regulations 31, 34 or 38;
- (g) serving a copy of a notice under regulations 32, 36 or 39;
- (h) responding to a notice to which regulation 53 (2) applies;
- (i) requesting that an application for the registration of a trade mark be amended under section 48 (b) of the Act;
- (j) requesting renewal of the registration of a trade mark under section 59 of the Act;
- (k) responding to a notice to which regulation 63 (1) applies;
- (l) responding to a notification of the Registrar under regulation 66 (4);
- (m) complying with the authorised user's request referred to in regulation 68;
- (n) complying with a request for information referred to in regulation 69.

(2) For the purposes of paragraph (b) of the definition of "relevant act" in section 195 (8) of the Act, the following documents are prescribed —

- (a) a notice of opposition to the registration of a trade mark under section 36 of the Act;
- (b) a notice of opposition to which regulation 101 (1) applies.

Incapacity of certain persons

104.— (1) If a person is incapable of doing anything required or permitted by the Act or these Regulations to be done because of infancy or physical or mental disability, a court may, on the application of a person acting on behalf of the incapable person or of another person interested in the thing being done —

- (a) do the thing; or

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(b) appoint a person to do the thing;
in the name, and on behalf, of the incapable person.

(2) A thing done in the name of, and on behalf of, an incapable person is taken to have been done by that person as if the person had not been incapable when the thing was done.

Destruction of documents

105.— (1) The Registrar may order the destruction of documents relating to trade marks the registration of which ceased not less than 10 years before the date of the order.

(2) Sub-regulation (1) does not authorise the destruction of —

- (a) the Register; or
- (b) documents that are considered by the Registrar or the National Archives Authority of St. Lucia to be of legal or historical interest.

Direction not otherwise prescribed

106. If the Registrar reasonably believes that it is necessary for the proper conduct of proceedings for a person to perform an act, file a document or produce evidence that the person is not required by the Act or these Regulations to perform, file or produce, the Registrar may give notice in writing to the person requiring him or her —

- (a) to perform the act; or
- (b) file the document; or
- (c) to produce the evidence;

that is specified in the notice.

Requirements cannot be complied with for reasonable cause

107. If —

- (a) under these Regulations, a person is required to do an act or thing, sign a document, make a declaration or file or give to the Registrar a document or evidence; and
- (b) the Registrar is reasonably satisfied that the person cannot comply with the requirement;

subject to any condition that the Registrar may reasonably impose, the Registrar may dispense with the requirement.

*Trade Marks Regulations***Forms generally**

108.— (1) An authorisation of an attorney at law as an agent pursuant to section 183 of the Act shall be in the form prescribed in Form 2 of Schedule 6.

(2) A request for correction of a clerical error, or amendment of application of registration of trade mark and other documents pursuant to sections 47-50 of the Act shall be in the form prescribed in Form 6 of Schedule 6.

(3) An application for cancellation or amendment of registration of a trade mark on the Register pursuant to sections 65-68 of the Act shall be in the form prescribed in Form 8 of Schedule 6.

(4) An application to record claims to interests in and rights in respect of a trade mark pursuant to section 97 of the Act shall be in the form prescribed in Form 11 of Schedule 6.

(5) A notice of objection to importation pursuant to section 115(1) of the Act shall be in the form prescribed in Form 12 of Schedule 6.

(6) A revocation of the notice of objection to importation pursuant to section 115(5) of the Act shall be in the form prescribed in Form 13 of Schedule 6.

(7) An application for extension of time in which to bring an action pursuant to section 120(1) (b) of the Act shall be in the form prescribed in Form 14 of Schedule 6.

(8) A notice of seizure of infringing goods pursuant to section 117(a) of the Act shall be in the form prescribed in Form 15 of Schedule 6.

(9) A notice of seizure of infringing goods pursuant to section 117 (b) of the Act shall be in the form prescribed in Form 16 of Schedule 6.

(10) A notice of consent to goods being forfeited to the State pursuant to section 118 of the Act shall be in the form prescribed in Form 17 of Schedule 6.

(11) A notice of consent to goods being released to designated owner pursuant to section 119(2) of the Act shall be in the form prescribed in Form 18 of Schedule 6.

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(12) A notice of infringement of notified trade mark pursuant to section 120 (1) of the Act shall be in the form prescribed in Form 19 of Schedule 6.

(13) An application for consent to assignment of certification trade mark pursuant to section 157 of the Act shall be in the form prescribed in Form 20 of Schedule 6.

(14) A request to enter a change of name of registered owner or authorised user of a trade mark in the register pursuant to section 187 of the Act shall be in the form prescribed in Form 22 of Schedule 6.

(15) A Certificate of Registration pursuant to the Act shall be in the form prescribed in Form 27 of Schedule 6.

(16) A notification of amendment pursuant to Part 8 Division 2 of the Act shall be in the form prescribed in Form 28 of Schedule 6.

(17) A notice of renewal of registration of trade mark pursuant to section 61 (2) of the Act shall be in the form prescribed in Form 29 of Schedule 6.

(18) The Registrar may give a certificate, other than a certificate prescribed by the Act or these Regulations regarding any entry, matter or thing that he is authorised or required by the Act or these Regulations to make or do.

(19) A person who can show an interest in an entry, matter or thing for which a certificate is required may, by an application in Form 30, request the certificate from the Registrar.

Form of documents

109. A document to be filed pursuant to the Act shall be in the form prescribed in Schedules 3 and 6.

General

110. The Registrar may acknowledge inquires made to the office, but the Registrar need not furnish any applicant or other person with information that would require a search of the public records of the office or provide advice on matters concerning the interpretation of the Act or Regulations or concerning other questions of law.

*Trade Marks Regulations*PART 16
TRANSITIONAL PROVISIONS**Application of the Act****111.**— (1) If—

- (a) the Registrar has issued a report on an application lodged under Title X of the Commercial Code, Cap. 244; and
- (b) immediately before the commencement of these Regulations, the application is pending and has not been completed;

the report is taken to have been issued by the Registrar under the Act on the date on which it was issued under Title X of the Commercial Code, Cap. 244.

(2) If —

- (a) an application under Title X of the Commercial Code Cap 244 for the registration of a trade mark is amended under Title X of the Commercial Code, Cap. 244; and
- (b) immediately before the commencement of these Regulations, the application is pending and has not been accepted;

the amendment is taken to have been made under the Act on the date on which it was made under Title X of the Commercial Code, Cap. 244.

Certain extensions of time continue**112.** If—

- (a) the Registrar has extended a period of time under the Trade Marks and Service Marks Rules 1986 of the United Kingdom; and
- (b) the extended period of time had not ended before the commencement of these Regulations;

the period ends when it would have ended if that section had continued to be in force.

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SCHEDULE 1

*(Regulation 20)***SIGNS THAT SHALL NOT BE REGISTERED
AS TRADE MARKS**

The following shall not be registered as trade marks —

- (a) the words “Patent”, “Patented”, “By Royal Letters Patent”, “Registered”, “Registered Design”, “Copyright” “Plant Breeder’s Rights”, or words or symbols to the same effect, including the symbols;
- (b) the words “To counterfeit this is a forgery”, or words to the same effect;
- (c) a representation of the Coat of Arms, or of the flag or seal, of Saint Lucia;
- (d) a representation of the logo or emblem of a public authority or public institution in Saint Lucia except where registered by the public authority or public institution to which it relates;
- (e) a representation of a mark notified by the International Union for the Protection of Industrial Property as not entitled to registration under international arrangements;
- (f) words, letters or devices likely to lead persons to think that the applicant has or recently has had Royal patronage or authorisation;
- (g) a representation of the Royal Crown.

 SCHEDULE 2
*(Regulation 75)***PRESCRIBED OFFICES**

1. Deputy Registrar
2. Assistant Registrar
3. Clerk III
4. Clerk/typist
5. Secretary
6. Vault Attendant
7. Office Assistant
8. Accounts Clerk

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SCHEDULE 3

*(Regulation 107)***FORM OF DOCUMENTS**

1. Documents, except documents mentioned in regulations 16, 29 and 93 must be written in English.
2. Documents (excluding documents that are to be filed by facsimile transmission) must be written on tough white paper of good quality, preferably international A4 size (297 millimeters by 210 millimeters) or 81/2 x 11 size (216 millimeters by 279 millimeters).
3. The contents of a document must be written on one side only of the paper in a carbonaceous or other permanent ink on which bleaching agents do not have any effect.
4. The contents of a document must be legible and if the document is printed, the type setting must not be less than size 12 font point.
5. The signature of the person signing a document and the date of signature must be placed on the last sheet of the document.
6. The name of a person signing a document must be legibly written under or beside the signature of that person.
7. An alteration made in a document before it is filed at the Registry of Companies and Intellectual Property must be initialed in the margin of the document opposite to the alteration by the person who signs the document.
8. The use of correction fluid on documents is prohibited and such documents will not be accepted for filing.
9. Documents must be filed in duplicate.
10. Documents which pertain to applications under the Act must be accompanied by an authorisation of agent form as prescribed in Form 2 of Schedule 6.

Trade Marks Regulations

SCHEDULE 4

*(Regulation 88)***COSTS, EXPENSES AND ALLOWANCE**PART 1
COSTS

Column 1 Item	Column 2 Matter	Column 3 Amount
1	Notice of opposition	\$180
2	Evidence in support	\$480
3	Receiving and perusing notice of opposition	\$100
4	Receiving and perusing evidence in support	\$100
5	Evidence in answer	\$300
6	Receiving and perusing evidence in answer	\$150
7	Evidence in reply	\$150
8	Receiving and perusing evidence in reply	\$100
9	Preparation of cases for hearing	\$300
10	Attendance at hearing by attorney-at-law	\$200 per hour

PART 2
EXPENSES AND ALLOWANCESDivision 1
EXPENSES

1. A person who has paid a fee prescribed in these Regulations in relation to proceedings before the Registrar may be paid the amount of the fee.
2. A person attending proceedings before the Registrar must be paid —
 - (a) a reasonable amount for allowances for transport between the usual place of residence of the person and the place that he or she attends for that purpose; and

Trade Marks Regulations

- (b) if the person is required to be absent overnight from his or her usual place of residence—a reasonable amount for allowances up to a daily maximum of \$400 for meals and accommodation.

Division 2
Allowances

- 3. A person who, because of his or her professional, scientific or other special skill or knowledge, is summoned to appear as a witness before the Registrar must be paid —
 - (a) if the person is remunerated in his or her occupation by wages, salary or fees—an amount equal to the amount of wages, salary or fees not paid to the person because of his or her attendance for that purpose; and
 - (b) in any other case—an amount of not less than \$100, or more than \$500, for each day on which he or she so attends.
- 4. A person summoned to appear as a witness, other than a witness referred to in clause 3, before the Registrar must be paid —
 - (a) if the person is remunerated in his or her occupation by wages, salary or fees—an amount equal to the amount of wages, salary or fees not paid to the person because of his or her attendance for that purpose; and
 - (b) in any other case—an amount of not less than \$60, or more than \$100, for each day on which he or she so attends.

Trade Marks Regulations

SCHEDULE 5

(Regulation 96)

FEES

ITEM	MATTER	FEES
1	Filing an application to register a trade mark/ certification/defensive or collective trade mark (a) In respect of goods or services in a single prescribed class (b) In respect of goods or services in more than 1 prescribed class	\$100.00 \$100.00 plus \$50.00 for each additional class
2	Filing of divisional application	\$100.00 for each class
3	Filing of an application to register 2 or more trade marks as a series under Section 35	\$200.00 in respect of 2 trade marks plus \$50.00 for each additional mark in the series
4	Additional fee for filing application under item 1,2, or 3 if a representation of the mark exceeds 8cm x 8 cm or 3 in x 3 in	\$65.00 per application
5	Request for deferment of acceptance of an application	\$50.00
6	Request for expedited examination of application for registration of a trade mark	\$40.00
7	Filing of any notice of opposition	\$200.00
8	Filing of application for extension of period or time under regulations — (a) for each month or part of a month for which the extension is sought (b) additional fee if application or request is filed after the end of the period or time to extend	\$50.00 \$100.00

Trade Marks Regulations

ITEM	MATTER	FEES
9	Filing of notice or evidence in opposition proceedings	\$60.00
10	Certificate of registration of trade mark in respect of 1 – 4 Classes 5 – 10 Classes 11 – 15 Classes 16 – 20 Classes 21 Classes and up	\$100.00 \$200.00 \$300.00 \$350.00 \$400.00
11	Publication/Gazette fee (a) word mark (b) combined mark (c) logos	\$100 for single class and \$100 for each additional class \$125 for single class and \$100 for each additional class \$150 for single class and \$100 for each additional class
12	Renewal of registration of trade mark (a) in respect of goods or services in a single prescribed class (b) in respect of goods or services in more than one prescribed class (c) as a result of a request made within 12 months after the expiry date Certificate of Renewal	\$100.00 \$100.00 plus \$20.00 for each additional class in addition to fees in (a) and (b) \$25.00 for each class and for each month or part of a month after the expiry date \$50.00
13	Application for amendment of trade mark application before or after publication of notice of application	\$50.00

Trade Marks Regulations

ITEM	MATTER	FEES
14	Application for amendment of Register	\$80.00 per mark
15	Application for amendment of documents other than application for registration of trade mark	\$40.00
16	Filing authorisation of agent – 1st time -if already filed	\$5.00 \$2.00
17	Application for cancellation of a mark	\$50.00
18	Filing an application for recording of assignment or transmission of trade mark	\$100.00 per mark
19	Application to record a claim to an interest in or a right in respect of a trade mark	\$100.00
20	Request for an amendment or cancellation of recorded particulars of a claim to an interest in, or a right in respect of a trade mark	\$80.00
21	Filing a copy of rules governing use of a certification trade mark	\$80.00
22	Filing evidence supporting an application for registration of a defensive trade mark	\$80.00
23	Request for hearing	\$200.00
24	Attendance at hearing	\$50.00
25	Withdrawal of an application, notice or request	\$20.00
26	Request for change of address of registered owner	\$30.00 per mark
27	Request for change of name of registered owner	\$40.00 per mark
28	Filing of application for costs	\$25.00
29	Taxation of costs	\$60.00
30	Certified copy of a certificate of registration	\$20.00
31	Certified copy of a document other than a certificate of registration	\$10.00

Trade Marks Regulations

ITEM	MATTER	FEES
32	Uncertified photographic copy of document	\$1.00 per page
33	Filing of any document for which a fee is not provided	\$20.00
34	Search	\$5.00 for up to three files, and \$1.00 for each additional file
35	Request for Certificate in relation to an entry, matter or thing under Regulation 108 (18), (19)	\$30.00

Trade Marks Regulations

SCHEDULE 6

(Regulation 6)

FORMS

FORM 1

APPLICATION FOR REGISTRATION OF A TRADE MARK
(Reproduction of mark should not exceed 8 cm x 8 cm or 3 in X 3 in)

Please refer to the notes for completion of this form
 trade Marks Act 2001 : Section 11 parts 15, 16 & 17

<p>1. Indicate if this application is for</p> <p>(i) a trade mark</p> <p>(ii) a collective trade mark</p> <p>(iii) a certification trade mark</p> <p>(iv) a defensive trade mark</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>2. The applicant claims to be the owner of the trade mark and</p> <p>(i) is using or intends to use the trade mark</p> <p>(ii) has authorised or intends to authorise another person to use the trade mark</p> <p>(iii) intends to assign the trade mark to body corporate</p>	<p><input type="checkbox"/></p> <p><input type="checkbox"/></p> <p><input type="checkbox"/></p>
<p>3. Representation of trade mark</p>	<div style="border: 1px solid black; height: 150px; width: 100%;"></div>

Trade Marks Regulations

4. State "Yes" here if the trade mark is a word or words without any particular form of presentation
-
5. If mark contains or consists of a sign that is a colour, shape or an aspect of packaging, or any combination of those, give concise and accurate description of the trade mark
-
6. If the application is a series of marks indicate how many in the series
-
- | | | | |
|---|----------------|---------|--------|
| 7. If this application claims priority indicate the priority date(s) claimed, the country and the number. | Date of filing | Country | Number |
|---|----------------|---------|--------|
-
8. Certified copy of application of which priority is claimed
- | | |
|-------------------------------------|--------------------------|
| Is attached | <input type="checkbox"/> |
| Will be furnished within six months | <input type="checkbox"/> |
-
9. Translation of certified copy
- | | |
|---|--------------------------|
| Is attached | <input type="checkbox"/> |
| Will be furnished within one month of the filing date | <input type="checkbox"/> |
-
- | | | |
|--|--------------|---------------|
| 10. Specification of goods or services | Class number | List of goods |
|--|--------------|---------------|
-
11. if colour claimed, indicate and state colours claimed
-
12. Indicate any limitation or disclaimers
-
13. Full name and address of applicant
-
14. Full name and address of agent

Trade Marks Regulations

FORM 2

(Regulation 108 (1))

**AUTHORISATION OF AGENT
(Trade Marks Act 2001: Section 183)**

I/We¹

.....
have appointed² of³

to act as my/our Agent in relation to⁴

- 1. Application and registration of and post registration matters relating to the following trade mark(s):
- 2. The following application(s) or registration(s) in relation to the following registered mark(s):
- 3. Registration of and other proceedings in relation to all trade marks in which we may now or hereafter have any right or interest.

I/We request that all monies, requisitions and communications relating thereto be sent to the agent at the above address.

I/We hereby revoke all previous authorizations, if any, in respect of the same matter or proceeding.

I/We hereby declare that I am/We are⁵

Dated this day of 2

Signature⁶:

Address:

N.B.: The Authorisation of Agent must bear the Seal or Stamp of the Company.

¹ The full name of the Company or person
² Insert full name of Agent(s)
³ Insert full address of Agent and Chambers (if applicable)
⁴ Tick appropriate box(es)
⁵ State nationality of Applicant
⁶ To be signed by person appointing Agent or authorised officer of the Company

Trade Marks Regulations

FORM 3

*(Regulation 22)***Request to divide an application
(Trade Marks Act 2001 : Part 4 Division 3)**

1. Give details of application to be divided
2. Is this request to divide the specification of goods or services?
3. If this request is to divide an application into more than two parts, indicate how many parts you want it divided into and give details.
4. Full name and address of applicant
5. Full name and address of agent
6. Signature
Date -----/-----/----- Day Month Year
7. State number of sheets attached to this form

NB: *List on a separate sheet (a) the goods or services by class number to be removed to a divisional application (b) representation of the marks which will form part of a divisional application.*

You cannot divide a registered trade mark.

Trade Marks Regulations

FORM 9

*(Regulation 55)***Application for the Removal of a Trade Mark from the Register**

(Trade Marks Act 2001 : Section 76)

1. Registration Number (s) and Class Number (s) of the trade marks for which removal is sought
2. Full name of registered proprietor
3. Is this application for removal of a mark in respect of?³
 - All goods / services
 - ⁴ Some goods / services

in respect of which the trade mark is registered
4. Grounds for the removal applied for
5. Agent details

Name _____

Address _____

6. Signature Date

_____ / _____ / _____

Agent Day Month Year

³ Tick the appropriate box⁴ List goods/services for which removal of trade mark is sought

Trade Marks Regulations

FORM 10

*(Regulation 59)***Application for Recordal of Assignment or
Transmission of Trade Mark**

(Trade Marks Act 2001 : Sections 91 - 93)

Registration number (s), Application number (s) and class number (s) of the trade marks concerned and the goods and services for which the trade mark (s) has been used.

⁵Registration No/Application No Class No.

Goods or services for which the trade mark has been used and is assigned.

-
1. Full name of current Registered Owner (Assignor)

2. Full name and address of assignee

(Name)

(Address)
3. Date of Assignment _____ / _____ / _____
4. Is the applicant the⁶
Current registered proprietor (Assignor)
Or Assignee
5. Certified copy of evidence of assignment or transmission of trade is attached
Yes No
6. Agent's Details _____
(Name)

(Address)
7. Signature _____ Date _____
Agent Day / Month / Year

⁵If more space is needed please insert

⁶Tick the appropriate box

Trade Marks Regulations

FORM 11

*(Regulation 108 (4))***Application to Record Claims to Interest in and
Rights in Respect of a Trade Mark**

(Trade Marks Act 2001 : Section 97)

1. Trade Mark Concerned Class No. Trademark No.

2. Applicant's Details

(Name)_____
(Address)_____
(Agent)

3. Registered Owner

(Name)_____
(Agent)

4. Particulars of claims to interest in, or to right on respect of trade mark

5. Signature

Date

Day / Month / Year_____
Day / Month / Year

Trade Marks Regulations

FORM 13

(Regulation 108 (6))

Revocation of Notice of Objection to Importation

(Trade Marks Act 2001 : Section 115 (5))

To: Comptroller of Customs & Excise

RE: Notified Trade Mark(s) ¹⁰ _____

Pursuant to notice dated: _____ / _____ / _____
Day Month Year

I/We¹¹ _____

of _____

being the registered owner/authorised user named in the above notice hereby
revokes the said notice in relation to the above mentioned trade mark(s)

Dated : _____ / _____ / _____
Day Month Year

Signature: _____

Name of Agent: _____

Address: _____

Contact No: _____

¹⁰ State registration number(s) and names of trade mark(s)

¹¹ Delete the appropriate one

Trade Marks Regulations

FORM 14

*(Regulation 108 (7))***Application for Extension of Time in which to bring Action**

(Trade Marks Act 2001 : Section 120 (1) (b))

To: Comptroller of Customs & Excise

RE: Notified Trade Mark _____

Pursuant to notice of objection to importation dated: _____ / _____ / _____
DD MM YYI/We¹² _____of¹³ _____being the objector(s) in relation to goods seized pursuant to notice of the Comptroller of Customs and Excise dated _____ / _____ / _____
DD MM YYhereby request an extension of time for a period of _____ days in which to bring the action with respect to the infringement of the notified trade mark(s). The reason for this request is stated hereunder:¹⁴Dated : _____ / _____ / _____
Day Month Year

Signature: _____

Name of Agent: _____

Address: _____

Contact No: _____

¹² Delete the appropriate one¹³ Insert full name and address¹⁴ Give full details

Trade Marks Regulations

FORM 15

(Regulation 108 (8))

Notice of Seizure of Infringing Goods

(Trade Marks 2001:Section 117 (a))

To: _____
of _____
(Designated owner)

Notice is hereby given that the undermentioned goods have been seized under Section 116 of the Trade Marks Act 2001:

Dated: _____ / _____ / _____
Day Month Year

Signature: _____
Comptroller of Customs & Excise

The Comptroller of Customs and Excise

Trade Marks Regulations

FORM 16

(Regulation 108 (9))

Notice of Seizure of Infringing Goods

(Trade Marks 2001:Section 117 (b))

To: _____
(Objector)

Notice is hereby given that the undermentioned goods have been seized under section 116 of the Trade Marks Act 2001.

The designated owner(s) of the goods is/are _____

of _____

Take notice that the said goods will be released to the designated owner unless you or one of the objectors bring an action for infringement of the notified trade mark and give notice under section 120 (1) (a) of the Trade Marks Act 2001 within one month from the date of this notice or if the period of notice has been extended under section 120 (1)(b) the extended period.

Dated: _____/_____/_____
Day Month Year

Signature: _____
Comptroller of Customs and Excise

The Comptroller of Customs and Excise

Trade Marks Regulations

Trade Mark Regulations

FORM 17

(Regulation 108 (10))

Notice of Consent to Goods Being Forfeited to the State

(Trade Marks 2001:Section 118)

To: The Comptroller of Customs and Excise

I/We¹⁵ _____

of ¹⁶ _____

the designated owner(s) of goods seized pursuant to notice of the
Comptroller of Customs and Excise dated _____/_____/_____
DD MM YY

hereby consent to the goods mentioned in the above notice being forfeited to
the State

Dated: _____/_____/_____
Day Month Year

Signature: _____

Name of Agent: _____

Address: _____

Contact No: _____

¹⁵ Delete the appropriate one

¹⁶ State full name and address

Trade Marks Regulations

FORM 19

(Regulation 108 (12))

Notice of Action for Infringement of Notified Trade Mark

(Trade Marks Act 2001: Section 120 (1))

To: The Comptroller of Customs and Excise

RE: Notified trade mark(s)²⁰ _____

Pursuant to notice dated _____ / _____ / _____
DD MM YY

I/We²¹ _____

of²² _____

being the objector(s) in relation to goods seized pursuant to notice of the
Comptroller of Customs and Excise dated _____ / _____ / _____
DD MM YY

hereby give notice that action No. _____ has been commenced on _____
in²³ _____ with

respect to the infringement of the notified trade mark.

Dated: _____ / _____ / _____
Day Month Year

Signature: _____

Name of Agent: _____

Address: _____

Contact No: _____

²⁰Insert registration number(s) and names

²¹Delete the appropriate one

²²State full name and address

²³Insert the full name and jurisdiction in which the action has been commenced

Trade Marks Regulations

FORM20

*(Regulation 108 (13))***Application for Consent to Assignment of Certification Trade Mark**

(Trade Marks Act 2001: Section 157)

To: Registrar of Companies and Intellectual Property

1. Registration No _____ Class _____
2. Registered owner: _____
(Name)

(Address)
3. Agent

(Name)
4. Assignee

(Name)

Address
5. The assignee proposes to continue after assignment to apply the same rules governing use of the registered certification trade mark that the registered owner applies: Yes No
6. The assignee proposes to apply the following variation of the rules after the assignment
7. A copy of the rules incorporating the proposed variation is attached
Yes No

Date: ____/____/____
Day Month YearSignature: _____
Agent

Trade Marks Regulations

FORM 21

*(Regulation 86)***Request for Change of Address for Service in the
Register of Trade Marks**

(Trade Marks Act 2001 : Section 186)

1. Registration number

Trade mark number

Class

2. Full name of Registered Owner or Authorised User currently on Register

Name: _____

Address: _____

3. New Address to be entered on register

New Address: _____

4. Agent Name: _____

Address : _____

5. Signature

Date

Agent_____/_____/_____
Day Month Year

Trade Marks Regulations

FORM 22

*(Regulation 108 (4))***Request to enter Change of Name of Registered Owner or Authorised User of a Trade Mark in the Register**

(Trade Marks Act 2001 : Section 187)

1. Registration Number (s) and Class of the trade marks affected
- ²⁴

Registration number Class Registration number Class

2. Is the name to be changed that of the registered proprietor or registered user of the mark(s) above
- ²⁵

Registered owner

Authorised user

3. Give full name(s) of registered proprietor or registered user at present on the Register _____

4. New name to be entered on the Register.

5. Certified copy of evidence of change of name is attached

Yes No

6. Agents details

Name: _____

Address: _____

Signature

Date

Agent_____/_____/_____
Day Month Year²⁴ Insert more if needed²⁵ Tick appropriate box

Trade Marks Regulations

FORM 23

(Regulation 100)

Request for Extension of Time

(Trade Marks Act 2001 : Section 195)

To: Registrar of Companies and Intellectual Property

Application number: Date:

Class(es):

Dear Sir/Madam

An extension of time is requested for months from to in respect of the above application in order to deal with outstanding matters. The reason(s) for the request is/are as follows:

Yours faithfully

For official use only

To: _____

Application Number: Class(es):

Applicants name:

Dear Sirs

Your request for an extension of time has been granted from _____ to _____

Yours faithfully

REGISTRY OF COMPANIES & INTELLECTUAL PROPERTY

.....
REGISTRAR

Trade Marks Regulations

FORM 24

(Regulation 95)

Request to the Registrar for a statement of grounds of decision

(Trade Marks Act 2001)

1. Details of the application or registration Number(s) Class
2. Date of Registrar's decision
3. Agents Details _____

(Name)

_____/_____/_____
DD MM YY

Signature

Trade Marks Regulations

FORM 27

(Regulation 108 (15))



CERTIFICATE OF REGISTRATION OF TRADEMARK

(Trade Marks Act 2001)

Trademark No:
Date filed:
Registration renewal Date:

To:

I, _____ Registrar of Companies and Intellectual Property of Saint Lucia hereby certify that the above trade mark/certification trademark/collective trademark/defensive trademark has been registered in your name in respect of the following class (es) and goods and/or services for a period of ten years from theday of.....,20..... and may be renewed at the expiration of that period and each succeeding period of ten years.

Class:

Goods/services:

WITNESS my hand this day of

Two thousand and

Registrar
Companies and Intellectual Property

Trade Marks Regulations

FORM 28

(Regulation 108 (16))



NOTIFICATION OF AMENDMENT

(Trade Marks Act 2001: Part 8 Division 2)

To:

TAKE NOTICE that the following amendment has been made to Application No.
Trademark No.

Details of Amendment Made

Dated this day of 20

Registrar
Companies & Intellectual Property

Trade Marks Regulations

FORM 29

(Regulation 108 (17))



CERTIFICATE OF RENEWAL OF REGISTRATION OF TRADEMARK

(Trade Marks Act 2001: Section 61 (2))

To:

I,
Registrar of Companies & Intellectual Property of Saint Lucia, do hereby certify
that by virtue of an application filed the day of 20
Registered Trademark No. has been renewed for a period of ten
years from day of 20

Next renewal date:

WITNESS my hand this day of

Two thousand and

Registrar
Companies and Intellectual Property

Trade Marks Regulations

FORM 30

(Regulation 108 (19))

(Trade Marks Act 2001)**REQUEST FOR CERTIFICATE OF THE REGISTRAR IN RELATION
TO AN ENTRY, MATTER OR THING**IN THE MATTER OF ²⁸ (e.g. an application for change of name)I/We _____ hereby
(insert name and address)request the Registrar to furnish me (us) with _____²⁹

Dated this day of 20

_____³⁰
Signature_____³¹
Address

To:

The Registrar
Registry of Companies and Intellectual Property
Saint Lucia²⁸ These words matter be altered to suit other circumstances²⁹ Here set out the particulars that the Director is required to certify³⁰ Signature(s) with full names typed below³¹ Address

Made this 4th day of February, 2003.

PETRUS COMPTON,
Attorney General.