

LAWS OF DOMINICA

**REGISTRATION OF UNITED KINGDOM
TRADE MARKS ACT**

CHAPTER 78:44

Act
13 of 1946
Amended by
27 of 1982*
12 of 1990

(*See Note on page 2)

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**Note
on
Act No. 27 of 1982**

Act No. 27 of 1982 purported to amend the Second Schedule to the Act. The Act does not contain a Second Schedule. Act No. 27 of 1982 has been omitted.

**REGISTRATION OF UNITED KINGDOM
TRADE MARKS ACTS**

CHAPTER 78:44

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
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CHAPTER 78:44

REGISTRATION OF UNITED KINGDOM
TRADE MARKS ACT

1961 Ed.
Cap. 328.
13 of 1946.

AN ACT to provide for the registration of United Kingdom trade marks.

Commencement.

[31st December 1946]

Short title.

1. This Act may be cited as the –

REGISTRATION OF UNITED KINGDOM
TRADE MARKS ACT.

Interpretation.

2. In this Act –

“Court” means the High Court of Justice;

“register” means the register of trade marks required to be kept under this Act;

“Registrar” means the Registrar of the Court.

Application for
registration.
1 & 2 Geo.
VI. c. 22.

3. Any person being the registered proprietor of a trade mark in the United Kingdom by virtue of an entry in the register of trade marks kept under the Trade Marks Act 1938 (United Kingdom) or any Act amending or substituted for that Act, or any person deriving title from the registered proprietor by assignment or other mode of transfer, may apply at any time during the existence of the registration in the United Kingdom to have the trade mark registered in the State in respect of some or all of the goods comprised in the United Kingdom registration.

Procedure on
application.

4. An application for registration of a trade mark under this Act shall be made to the Registrar and accompanied by a certified representation of the trade mark and a certificate of the Comptroller General of the United Kingdom Patent Office (under his title of Registrar of Trade Marks) giving full particulars of the registration of the trade mark in the United Kingdom, and such other documents as may from time to time be prescribed.

Issue of
certificate.

5. Upon the application being lodged, together with the documents mentioned in section 4 the Registrar shall enter the prescribed particulars in the register and shall issue a certificate of registration.

6. Subject to this Act, a registered proprietor shall have in the State such privileges and rights in the use of the trade mark in respect of the goods entered in the register as *mutatis mutandis* would be conferred on him by the law in force in the United Kingdom on 2nd November 1978.

Privileges of proprietor.
[12 of 1990].

7. The privileges and rights conferred by section 6 shall date from the date of registration in the United Kingdom and shall continue in force, subject to section 15, or so long as the registration in the United Kingdom remains in force in respect of the goods for which the trade mark is registered in the State; and no action for infringement of the trade mark shall be entertained in respect of any use of the trade mark prior to the date of issue of the certificate of registration in the State.

Duration of privileges.

8. Nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as those of another person or any remedy in respect thereof.

Right of action for passing off.

9. The Court shall have power upon the application of any person who alleges that his interests have been prejudicially affected by the issue of a certificate of registration, to declare on any of the grounds *mutatis mutandis* on which the United Kingdom registration might be cancelled under the law in force in the United Kingdom on 2nd November 1978 that the exclusive privileges and rights have not been acquired.

Powers of Court.
[12 of 1990].

10. Subject to the provisions of this Act, where a person becomes entitled by assignment, transmission or other operation of law to the privileges and rights conferred by a certificate of registration issued under this Act, the Registrar shall, on application being made in the prescribed manner, and on proof of title to his satisfaction, cause such person to be entered on the register as subsequent proprietor of the trade mark.

Assignment of privileges.

11. Any person entered in the United Kingdom Register of Trade Marks under section 28 of the Trade Marks Act 1938 (United Kingdom) as a registered user in respect of any goods of a trade mark in respect of which a certificate of registration under this Act is in force may apply to be registered in the State as a registered user of the mark in respect of some or all of such goods, subject to any conditions or restrictions entered in the United Kingdom register.

Application by registered user.
1 & 2 Geo.
VI. c. 22.

Entry in Register.
[12 of 1990].

12. Upon the application being lodged, together with a certificate of the United Kingdom Registrar of Trade Marks giving full particulars of the entry in the United Kingdom register under the said section 28, the Registrar shall cause the applicant to be entered in the register of the State as a registered user of the trade mark, and on the entry the registered user shall be entitled in the State, subject to the aforesaid conditions and restrictions, to such privileges and rights in respect of the goods for which he is entered as *mutatis mutandis* would be conferred on him by the law in force in the United Kingdom on 2nd November 1978.

Powers of
Minister.

13. The Minister may make such Rules and do such things as he may think expedient, subject to this Act, for regulating procedure under this Act, and prescribing the fees to be paid in respect of proceedings under this Act, and generally for prescribing anything which by this Act is to be prescribed.

Keeping and
inspection of
register.

14. (1) There shall be kept in the Registrar's office a register in which shall be entered in the prescribed form all matters which are by this Act required to be registered.

(2) The register shall be open to inspection at all hours during which the Registrar's office is open.

Renewal of
registration.

15. If the registration in the United Kingdom of a trade mark registered under this Act is renewed, the registered proprietor may, within six months after the date of renewal in the United Kingdom, notify the Registrar, who shall then on sufficient evidence thereof and on payment of the prescribed fee, renew the registration in the register in the prescribed manner. If the registration in the register is not so renewed it shall be cancelled by the Registrar.

Powers of
Registrar.

16. The Registrar may, on request in writing made by the registered proprietor, and on payment of the prescribed fee –

- (a) cancel the registration of a trade mark or of a registered user thereunder either wholly or as regards any particular goods in respect of which the trade mark or the registered user is registered;
- (b) correct any clerical error in or in connection with any application under this Act or in any matter which is entered in the register;

- (c) enter in the register any change in the name, description or address of the person who is registered as proprietor or user of a trade mark.

17. (1) The Registration of United Kingdom Trade Marks Act 1930 is hereby repealed without prejudice to anything done or suffered thereunder, or any right, privilege, obligation or liability acquired, accrued, or incurred thereunder or any rules made thereunder. Such rules shall be deemed to have been made under this Act and shall continue in force, so far as the same may not be rendered inapplicable by this Act, until other provision shall be made under or by virtue of this Act.

Repeal and
saving.
L.I. 1 of 1930.

(2) The register kept under the provisions of the Registration of United Kingdom Trade Marks Act 1930 shall continue in force and shall be deemed to be the register to be kept under this Act.

Saving and form
of register.

SUBSIDIARY LEGISLATION

**REGISTRATION OF UNITED KINGDOM
TRADE MARKS RULES****ARRANGEMENT OF RULES****RULES**

1. Short title.
2. Interpretation.
3. Application for registration.
4. Acknowledgment of receipt of application.
5. Form of certificate of registration.
6. Subsequent registered proprietors.
7. Registered users.
8. Renewal of registration.
9. Application by non-resident.
10. Advertisement.
11. Powers of Registrar.
12. Fees.

FIRST SCHEDULE.**SECOND SCHEDULE.**

SUBSIDIARY LEGISLATION

REGISTRATION OF UNITED KINGDOM
TRADE MARKS RULES3/1947.
[27 of 1982
1 of 1973
35/1983].*made under section 13*

[17th March 1947]

Commencement.

1. These Rules may be cited as the –

Short title.

REGISTRATION OF UNITED KINGDOM
TRADE MARKS RULES.

2. In these Rules “Form”, identified by a letter, means the Form so identified as set out in the First Schedule;

Interpretation.
First Schedule.

3. Every application for registration of a trade mark shall be in Form A, and shall be accompanied by a certificate of United Kingdom registration. A representation of the trade mark shall be affixed to the said application.

Application for
registration.
Form A.

4. On receipt of the application the Registrar shall send to the applicant an acknowledgment thereof in Form B.

Acknowledgment
of receipt of
application.
Form B.

5. The form of certificate of registration issued by the Registrar shall be in Form C.

Form of
certificate of
registration.
Form C.

6. (1) An application under section 10 of the Act shall be made in Form C.

Subsequent
registered
proprietors.
Form C.

- (2) In proof of his title the applicant shall produce the certificate of registration issued under section 5 of the Act and a certificate of the United Kingdom Registrar of Trade Marks giving full particulars of the registration of the applicant as a subsequent registered proprietor of the registered trade mark.

- (3) Upon entry in the register of the applicant as a subsequent registered proprietor of a trade mark the Registrar shall endorse upon the certificate of registration issued under the Act a statement of the alteration in the proprietorship of the trade mark.

[Subsidiary]

Registration of United Kingdom

Trade Marks Rules

Registered users.
Form E.

7. (1) An application under section 11 of the Act shall be made in Form E.

(2) The Registrar may at the request of a registered user issue a certificate of the registration of that registered user in respect of the goods of a trade mark for which he is entered in the register.

Renewal of
registration.

8. (1) Application for renewals of registration shall be in writing accompanied by the relative certificate of renewal in the United Kingdom.

(2) The form of certificate of renewal issued by the Registrar shall be in Form F.

Form F.

Application by
non-resident.

9. Where the applicant for registration, renewal of registration, or registration of assignment of a trade mark does not reside in the State he shall employ, for the purpose of making the application and doing all things necessary for obtaining the registration of the trade mark, an agent resident in the State, who shall be appointed in the manner prescribed in Form G.

Form G.

Advertisement.

10. (1) As soon as may be after the receipt of an application made as provided by these Rules, the Registrar shall forward the same or a copy thereof to the Minister for advertisement in as many issues of the *Gazette* (not exceeding three issues) as the Registrar shall think necessary.

(2) For the purpose of the advertisement the applicant may be required to furnish a wood-block or electrotype of the trade mark of such dimensions as may from time to time be directed by the Registrar, or such other information or means of advertising the trade mark as may be allowed the Registrar.

Powers of
Registrar.
Form H.

11. (1) Applications under section 16 of the Act shall be made in Form H. Every such application shall be accompanied by the certificate of registration under the Act and such evidence as the Registrar may consider sufficient.

(2) Upon receipt of the application the Registrar may cause the necessary alterations to be made in the register and in the certificate of registration, and in the case of a cancellation of a trade mark wholly he shall cancel the certificate of registration and retain it.

12. The fees in the Second Schedule shall be charged in respect of the various items therein set out and shall be paid by the applicant or his agent to the Registrar who shall pay the same into the Treasury as soon as possible after the receipt thereof. Fees. Second Schedule.

FIRST SCHEDULE

Rule 2.

FORMS

N.B. – The Registrar is not obliged to supply forms.

FORM A

Rule 3.

APPLICATION FOR REGISTRATION

Dominica.

The Registration of United Kingdom Trade Marks Act

(Representation of trade mark to be affixed here)

Application is hereby made for the registration, in the register, of the United Kingdom Trade Mark No. registered on the day of, 19....., and for the issue to me (or to us, or A. B.) of a certificate of registration in Dominica for the said trade mark.

Dated the day of, 19.....

..... Signature of Applicant or Agent.

To the Registrar of Trade Marks, Dominica.

FORM B

ACKNOWLEDGMENT OF APPLICATION

Dominica.

The Registration of United Kingdom Trade Marks Act

I do hereby acknowledge that I have received at my office at Roseau, Dominica, this day of, 19....., an application by of for the issue of a certificate of registration of United Kingdom Trade Mark No..... in respect of under the Registration of United Kingdom Trade Marks Act accompanied by the following documents, viz. –

Dated this day of, 19

.....
Registrar of Trade Marks.

FORM C

CERTIFICATE OF REGISTRATION

Dominica.

The Registration of United Kingdom Trade Marks Act

No.....

I, Registrar of Trade Marks for the State of Dominica hereby certify that the United Kingdom Trade Mark No..... of which a representation is affixed hereto, was registered in Dominica under date the day of, 19....., No..... in Class in respect of, (a).....

In pursuance of an application received on the day of, 19....., are registered as proprietors of the said trade mark as from the (b) day of, 19.....

Registration shall remain in force (in accordance with the provision of the Act) for so long as registration in the United Kingdom remains in force, and subject to notification in Dominica of renewals of registration in the United Kingdom as required by section 15 of the Act.

Representation
of
Mark.

In witness whereof I have hereunto set my hand
this day of, 19.....

.....
Registrar of Trade Marks,
Dominica

- (a) Here state goods.
- (b) Insert date of registration in the United Kingdom.

FORM D

Rule 6.

APPLICATION TO REGISTER SUBSEQUENT PROPRIETOR

Dominica.

The Registration of United Kingdom Trade Marks Act

I (or we) (a)..... hereby make application
to you to enter my (or our) name (or names) in the Register of Trade Marks as
the proprietor (or proprietors) of the United Kingdom Trade Marks registered
in Dominica under No..... in respect of

I am (or we are) entitled to the privileges and rights conferred by the certificate
of registration issued under the above-mentioned Act, in proof whereof I (or
we) transmit the said certificate of registration and (b)

Dated the day of, 19.....

Signed.....

My (or our) address for service in Dominica is as follows:

To the Registrar,
Dominica.

- (a) Here insert name, address and description of applicant or applicants.
- (b) Describe any document on which the applicant bases his title.

Rule 7.

FORM E

APPLICATION OF REGISTRATION OF REGISTERED USER

Dominica.

The Registration of United Kingdom Trade Marks Act

I (or we, or A. B.) hereby apply for registration as a registered user (or users) in respect of goods of the trade mark registered in the United Kingdom under the Trade Marks Act numbered and bearing date and more fully set out and referred to in the accompanying certificate of the Comptroller General of the United Kingdom Patents Office.

Dated the day of, 19.....

(Signed)

My (or our) address for service in Dominica is as follows:

To the Registrar of Trade Marks,
Dominica.

Rule 8.

FORM F

CERTIFICATE OF RENEWAL OF REGISTRATION

Dominica.

The Registration of United Kingdom Trade Marks Act

I DO HEREBY CERTIFY that the registration of the United Kingdom Trade Mark No..... "....." registered in Dominica in the name of No..... in Class is renewed for the period of years from the day of, 19....., until the day of, 19.....

GIVEN under my hand and seal of office this day of, 19.....

.....
Registrar of Trade Marks
Dominica.

FORM G

Rule 9.

APPOINTMENT OF AGENT

Dominica.

The Registration of United Kingdom Trade Marks Act

I (or we) hereby appoint of to act as my (or our) agent in Dominica (a) and request that all notices, applications or communications relating thereto may be sent to such agent at the above address.

Dated the day of, 19.....

.....
Proprietor.

To the Registrar,
Dominica.

(a) Here state the particular purpose for which the agent is appointed, e.g., all purposes in connection with the registration of the accompanying trade mark in the register and in connection with any application to the Court under section 9 of the Act and any assignment or renewals thereof, as the case may be.

FORM H

Rule 11.

APPLICATION FOR CANCELLATION OR ALTERATION BY REGISTRAR

Dominica.

The Registration of United Kingdom Trade Marks Act

I (or we) (a) the registered proprietor(s) of the United Kingdom Trade Mark registered under number on the day of, 19....., hereby make application that (b) (that the registration of the said trade mark may be cancelled, or that the registration of the said trade mark may be cancelled in respect of (c) or that you will enter (e) in the

- (a) Name, address and description.
- (b) Use words in brackets as circumstances may require.
- (c) Name of goods.
- (d) Set out error or correction required.
- (e) Insert here new name and/or address.

register as the name and/or address of the proprietor(s) of the said trade mark).

Dated the day of, 19.....

(Signed)

Applicant or Agent.

To the Registrar of Trade Marks,
Dominica.

My address for service in Dominica is as follows:

SECOND SCHEDULE

Rule 12.
[1 of 1973
27 of 1982
35/1983*].

* The following fees shall be payable for the following purposes:

- | | |
|--|---------|
| 1. On application for registration | \$20.00 |
| 2. Certificate of registration of one trade mark | 10.00 |
| 3. For each additional trade mark after the first, granted upon the same application | 5.00 |
| 4. Where the certificate of registration is for a trade mark in respect of goods in different classes for every class after the first an additional fee of | 2.50 |
| 5. For registering a subsequent proprietor | 10.00 |
| 6. For altering an address in the register | 2.50 |
| 7. For every entry in the register by way of rectification or alteration, not otherwise charged | 5.00 |
| 8. For every entry of renewal of registration | 10.00 |

* These fees came into effect on 14th June 1982 (35/1983)