



STATUTORY INSTRUMENTS

S.I. No. 621 of 2007



TRADE MARKS (AMENDMENT) RULES 2007

(Prn. A7/1686)

TRADE MARKS (AMENDMENT) RULES 2007

I, MICHAEL AHERN, Minister of State at the Department of Enterprise, Trade and Employment, in exercise of the powers conferred on me by section 81 of the Trade Marks Act 1996 (No. 6 of 1996), as adapted by the Enterprise and Employment (Alteration of Name of Department and Title of Minister) Order 1997 (S.I. No. 305 of 1997), and the Enterprise, Trade and Employment (Delegation of Ministerial Functions) (No. 4) Order 2007 (S.I. No. 562 of 2007), hereby make the following rules:

Citation.

1. These Rules may be cited as the Trade Marks (Amendment) Rules 2007.

Definition.

2. In these Rules, “Rules” means the Trade Marks Rules 1996 (S.I. No. 199 of 1996).

Amendment of Rule 10 of Rules.

3. Rule 10 of the Rules is amended, in paragraph (1)(a), by substituting “in the European Community” for “in the State”.

Amendment of Rule 51 of Rules.

4. Rule 51 of the Rules is amended—

(a) in paragraph (1)—

- (i) by substituting the following subparagraphs for subparagraphs (a) and (b):

“(a) in case the applicant is an individual, the full name, date of birth, nationality and private address of the individual and the name or style under which he or she proposes to carry on business as a registered trade mark agent (if other than his or her full name),

(b) in case the applicant is a partnership, the full name, date of birth and nationality of each of the partners, the name or style under which the partnership proposes to carry on business as a registered trade mark agent, and a statement that all the partners are registered in the Register of Trade Mark Agents,” and

- (ii) in subparagraph (c), by substituting “applicant” for “applicant carries on or”, and

Notice of the making of this Statutory Instrument was published in “Iris Oifigiúil” of 14th September, 2007.

(iii) by substituting the following subparagraph for subparagraph (d):

“(d) full particulars of the educational and professional qualifications of the person.”,

and

(b) by adding the following paragraphs:

“(4) The Board shall—

- (a) fix the time and place for the conducting of any examination referred to in paragraph (3),
- (b) appoint one or more examiners to conduct any such examination, and
- (c) make such other arrangements as may be necessary in relation to any such examination.

(5) The consideration of applications for registration shall be carried out, and any necessary examination for that purpose shall be conducted, as expeditiously as is practicable having regard to the number of applications received in the period concerned.

(6) Subject to paragraph (7), a person shall not be entered in the Register of Trade Mark Agents unless he or she has—

- (a) (i) sat a Leaving Certificate Examination conducted by the State Examinations Commission and attained, on the basis of the standards applied by that Commission at the time of the conducting thereof, results that constituted, at least, a pass at ordinary level in that examination, or
- (ii) attained a qualification which, in the opinion of the Board, is of equivalent standing, and
- (b) a satisfactory knowledge of the law and practice of trade marks.

(7) However, if it is otherwise satisfied, in light of the educational and professional qualifications which the applicant possesses, that the applicant is fit to perform the professional duties of a registered trade mark agent, the Board may waive the requirement in paragraph (6)(a) for the purpose of the consideration by it of any application.”.

Evidence of qualifications, etc.

5. The following Rules are inserted after Rule 51 of the Rules:

“Evidence of qualifications, etc.

51A. The following are prescribed for the purposes of paragraphs (a), (b) and (c), respectively, of section 85(4B)—

- (a) evidence indicating that the person referred to in section 85(4B) is established in the Member State concerned for the purpose of pursuing the activities concerned,
- (b) evidence of the applicable qualifications (within the meaning of section 85) being—
 - (i) evidence such as a copy of a diploma or certificate, or
 - (ii) other evidence of formal qualifications, awarded by the competent authority of the Member State concerned which indicates that the person referred to in section 85(4B) is qualified to act as a trade mark agent in that state, and
- (c) in a case falling—
 - (i) within paragraph (c)(i), a copy of a passport, national identity card or other proof of nationality, or
 - (ii) within paragraph (c)(ii), to the extent that proof of the matters referred to in the following clauses is not provided by the evidence referred to in paragraph (a)—
 - (I) a copy of a certificate of incorporation, an entry in a relevant register or other proof of the possession of the required legal personality,
 - (II) a copy of a certificate or an entry in a relevant register specifying the location of the person's registered office, central administration or principal place of business or other proof of its location.

Controller to be informed of certain change of circumstances.

51B. If, subsequent to the provision by a person to the Controller of such evidence as is referred to in section 85(4B), there is any material change of circumstances affecting the person's continuing to be qualified to act as a trade mark agent in the Member State concerned, the person shall, forthwith, notify the Controller in writing of that change of circumstances.”.

Amendment of Rule 59 of Rules.

6. Rule 59 of the Rules is amended—

- (a) in paragraph (d), by substituting “restored;” for “restored.”, and
- (b) by inserting the following after paragraph (d):

“(e) any person who no longer satisfies the requirements of section 85(4A);

(f) a person referred to in section 85(4B) who does not comply with Rule 51A or 51B.”.

GIVEN under my hand,
5 September 2007

MICHAEL AHERN,
Minister of State at the Department of Enterprise, Trade
and Employment.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Rules set out the evidential requirements with which a person established in another Member State of the European Community and qualified to act under the law of that State as a trade mark agent must comply in order to act for another person in relation to trade mark matters before the Controller of Patents, Designs and Trade Marks. They also set down the minimum educational qualifications a person must have in order to apply for registration in the register of Trade Mark Agents in Ireland and clarify certain functions to be carried out by the Trade Mark Agents Board.

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