

Trade ~Mark8
(Amendment)

[No. 17 of 1980 137

GOVERNMENT OF ZAMBIA

ACT
No. 17 of 1980

Date of Assent: 21st December, 1980

An Act to amend the Trade Marks Act

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ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Trade :Marks (Amend ment) Act, 1980, and shall be read as one with the Trade Marks Act, hereinafter referred to as the principal Act.

(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement.

Cap. 693

2. Section *two* of the principal Act is amended in subsection

(1) by the deletion of the definition of "Tribunal".

3. Section *fourteen*. of the principal Act is amended in subsection (3) by the deletion of "Tribunal" and the substitution therefor of "High Court".

Amendment of section 2

Amendment of section 14

4. Section *fifteen* of the principal Act is amended in subsection (2) by the deletion of "Tribunal" and the substitution of section 11) therefor of "High Court".

5. Section *seventeen* of the principal Act is amended in subsections (2) and (3) by the deletion of the word " Tribunal" wherever it occurs and the substitution therefor of "High Court".

Amendment.

of section 17

6. Section *nineteen* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".

~This Act shall come into operation on such date as the Minister, by statutory instrument, appoint.

Amendment

of section 19

*Single copies of this Act may be obtained from the Government Printer,
P.O. Box 30136, Lusaka, Zambia.*

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Amendment of section 20	7. Section <i>twenty</i> of the principal Act is amended in subsection (2) by the deletion in paragraph (b) of "Tribunal" and the substitution therefor of "High Court".	
Amendment of section 21	8. Section <i>twenty-one</i> of the principal Act is amended in subsection (1) by the deletion of "Tribunal" and the substitution therefor of "High Court".	
Amendment of section 22	9. Section <i>twenty-two</i> of the principal Act is amended— (a) by the deletion of subsection (6) and the substitution therefor of the following subsection: (6) An appeal under this section shall be heard in accordance with the provisions of Part XI; (b) in subsections (7) and (8) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".	
Amendment of section 23	10. Section <i>twenty-three</i> of the principal Act is amended in subsections (7), (8), (9) and (10) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".	
Amendment of section 24	11. Section <i>twenty-four</i> of the principal Act is amended in subsection (1) by the deletion of "Tribunal" and the substitution therefor of "High Court".	
Amendment of section 25	12. Section <i>twenty-five</i> of the principal Act is amended in the proviso to subsection (5) by the deletion of "Tribunal" and the substitution therefor of "High Court".	
Amendment of section 31	13. Section <i>thirty-one</i> of the principal Act is amended in subsections (1) and (2) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".	
Amendment of section 32	14. Section <i>thirty-two</i> of the principal Act is amended in subsection (4) by the deletion of "Tribunal" and the substitution therefor of "High Court".	
Amendment of section 35	15. Section <i>thirty-five</i> of the principal Act is amended in subsection (1) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".	
Amendment of section 37	16. Section <i>thirty-seven</i> of the principal Act is amended in subsections (1), (2), (3) and (4) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".	
Amendment of section 38	17. Section <i>thirty-eight</i> of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".	
Amendment of section 41	18. Section <i>forty-one</i> of the principal Act is amended in subsection (3) by the deletion of "Tribunal" and the substitution therefor of "High Court".	

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Amendment 7. Section *twenty* of the principal Act is amended in sub of Motion 20section (2) by the deletion in paragraph (*b*) of "Tribunal .. and the substitution therefor of "High Court".

Ameodment
of IHIOtion 21

Amendment of seeMon 2%

Amendment of section 23

8. Section *twenty-one* of the principa.l Act is amended in subsection (1) by the deletion of " Tribunal" and the substitu tion therefor of "High Court".

9.Section *twenty-two* of the principal Act is amended

(a)by the deletion of subsection (6) and the substitution therefor of the following subsection:

(6)An appeal under this section shall be heard in accordance with the provisions of Part XI;. .

(b)in subsections (7) and (8) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of " High Court".

10. Section *twenty-three* of the principal Act is amended insubsections (7), (8), (9) and (10) by the deletion of the word "Tribunal" wherever it occurs and the substibution therefor of "High Court".

Amendment 11. Section *twenty-four* of the principal Act is amended in of section 24subsection (1) by the deletion of "Tribunal" and thesubstitu tion therefor of "High Court".

Amendment 12. Section *twenty-five* of the principal Aot is amended in of section 25the proviso to subsection (5) by the deletion of "Tribunal" and the substitution therefor of "High Court".

Amendment of section 31

13. Section *thirty-one* of the principal Aot is amended in eubseotions (1) and (2) by the deletion of the word ·"Tribunal" wherever it oocurs and the substitution therefor of "High Court". .

Amendment 14. Section *thirty-two* of the principal Act is amended in of section 32subsection (4) by the deletion of " Tribunal" and the substitu tion therefor of " High Court".

Amendment 15. Section *thirty-five* of the principal Act is amended in of section 35subaeotion (1) by the deletion ofthe word" Tribunal" wherever it occurs and the substitution therefor of " High Court ".

Amendment

of Motion 37

16. Section *thirty-Seven* of the principal Act is amended in subsections (1), (2), (3) and (4) by the deletion of the word " Tribunal" wherever it occurs and the substitution therefor of " High Court".

Amendment
of section 38

Amendment of section 4]

17. Section *thirty-eight* of the principal Act is amended by the deletion of the word " Tribunal" wherever it occurs and the substitution therefor of " High Court".

18. Section *forty-one* of the principal Act is amended in subsection (3) by the deletion of " Tribunal" and the substitution therefor of " High Court ".

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19. Section *forty-two* of the principal Act is amended in subsection (2) by the deletion of "Tribunal" and the substitution therefor of "High Court".

Amendment
of section 42

20. The principal Act is amended by the repeal of section *forty-seven* and the substitution therefor of the following section:

Repeal and
replacement
of section 47

47. In all proceedings before the Registrar under this Act, the Registrar shall have power to award to any party such costs as he may consider reasonable and to direct how and by what parties they are to be paid, and any costs so awarded shall be taxed by the High Court and payment thereof may be enforced in the same manner as if they were costs allowed by the High Court.

Power of
Registrar to
award costs

21. The principal Act is amended by the repeal of section *fifty-one* and the substitution therefor of the following section:

Repeal and
replacement
of section 51

51. Where this Act provides for an appeal from a decision of the Registrar, such appeal shall be made to the High Court.

High Court
to hear
appeals

22. The principal Act is amended by the repeal of section *fifty-two*.

Repeal of
section 52

23. The principal Act is amended by the repeal of section *fifty-three* and the substitution therefor of the following section:

Repeal and
replacement
of section 53

53. The Chief Justice may, by statutory instrument, make rules regulating the practice and procedure relating to appeals or references to the High Court or the Supreme Court, as the case may be, as to—

Rules of
court

- (a) the time within which any requirement of the rules is to be complied with;
- (b) the costs and expenses of and incidental to any proceedings;
- (c) the fees to be charged in respect of such proceedings; and
- (d) the summary determination of any appeal which appears to the High Court or the Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay.

24. The principal Act is amended by the repeal of section *fifty-four*.

Repeal of
section 54

25. Section *fifty-five* of the principal Act is amended by the deletion of "Tribunal" and "Tribunal or High Court" and the substitution therefor of "High Court" and "High Court or Supreme Court", respectively.

Amendment
of section 55

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19. Section *forty-two* of the principal Act is amended in Amendment subsection (2) by the deletion of " Tribunal" and the substitution thereof of " High Court ".

20. The principal Act is amended by the repeal of section *Repeal* and replacement *forty-eight* and the substitution thereof of the following of section 47 section:

47. In all proceedings before the Registrar under this Part, of the Act, the Registrar shall have power to award to any party such costs as he may consider reasonable and to direct how and by what parties they are to be paid, and any costs so awarded shall be taxed by the High Court and payment thereof may be enforced in the same manner as if they were costs allowed by the High Court.

21. The principal Act is amended by the repeal of section *Repeal* and *fifty-one* and the substitution thereof of the following section: replacement of section 51

51. Where this Act provides for an appeal from a High Court decision of the Registrar, such appeal shall be made to the High Court.

22. The principal Act is amended by the repeal of section *fifty-two*.

23. The principal Act is amended by the repeal of section *fifty-three* and the substitution thereof of the following section:
Repeal of section 52

Repeal and replacement of section 53

53. The Chief Justice may, by statutory instrument, make rules regulating the practice and procedure relating to appeals or references to the High Court or the Supreme Court, as the case may be, as to

- (a) the time within which any requirement of the rules is to be complied with;
- (b) the costs and expenses of and incidental to any proceedings;
- (c) the fees to be charged in respect of such proceedings; and
- (d) the summary determination of any appeal which appears to the High Court or the Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay.

24. The principal Act is amended by the repeal of section *fifty-four*.

25. Section *fifty-five* of the principal Act is amended by the deletion of " Tribunal" and "Tribunal or High Court" and the substitution thereof of " High Court" and " High Court or Supreme Court", respectively.
Repeal of section 54

Amendment

of soctdon 65

Repeal and
replacement
of section 56

References
to High
Court by
Registrar

26. The principal Act is amended by the repeal of section *fifty-six* and the substitution therefor of the following section:

56. When any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall thereafter, in relation to such matter, act in accordance with the decision of the High Court or any decision substituted therefor on appeal to the Supreme Court.

Amendment
of section 58

27. Section *fifty-eight* of the principal Act is amended by the deletion of the words "High Court or Tribunal" wherever they occur and the substitution therefor of "Supreme Court or High Court".

Amendment
of section 60

28. Section *sixty* of the principal Act is amended by the deletion of "Tribunal" and the substitution therefor of "High Court".

Amendment
of section 61

29. Section *sixty-one* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".

Repeal of
sections
62 and 63

30. The principal Act is amended by the repeal of sections *sixty-two* and *sixty-three*.

Repeal and
replacement
of section 64

Procedure
in cases of
option to
apply to
High Court
or Registrar

31. The principal Act is amended by the repeal of section *sixty-four* and the substitution therefor of the following section:

64. Where under any of the foregoing provisions of this Act an applicant has an option to make an application either to the High Court or to the Registrar and such application is made to the Registrar, the Registrar may, at any stage of the proceedings, refer the application to the High Court or may, after hearing the parties, determine the question between them, subject to appeal to the High Court.

Repeal and
replacement
of section 65

Security for
costs and
taxation of
costs

32. The principal Act is amended by the repeal of section *sixty-five* and the substitution therefor of the following section:

65. (1) When a party to proceedings before the Registrar is resident outside Zambia, the Registrar may order such party to give security, within such time as may be directed, for the costs of the proceedings.

(2) If the party ordered to give security for costs fails to do so within the time directed, the Registrar may treat the proceedings as abandoned.

(3) Where a bond is to be given as security for costs, it shall, unless the Registrar otherwise directs, be given to the party requiring the security.

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Repeal and replacement of section 66

References

to High

Court by

Registrar

26. The principal Act is amended by the repeal of section *fifty-six* and the substitution therefor of the following section:

56. If in any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall thereafter, in relation to such matter, act in accordance with the decision of the High Court or any decision substituted therefor on appeal to the Supreme Court.

Amendment of section 58

27. Section *fifty-eight* of the principal Act is amended by the deletion of the words "High Court or Tribunal" wherever they occur and the substitution therefor of "Supreme Court or High Court".

Amendment

of section 60

28. Section *sixty* of the principal Act is amended by the deletion of "Tribunal" and the substitution therefor of "High Court".

Amendment

of section 61

29. Section *sixty-one* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".

Repeal of sections

62 and 63

Repeal and replacement of section 64

Procedure in cases of option to apply to High Court or Registrar

30. The principal Act is amended by the repeal of sections

sixty-two and *sixty-three*.

31. The principal Act is amended by the repeal of sections *sixty-four* and the substitution therefor of the following section:

64. Where under any of the foregoing provisions of this Act an applicant has an option to make an application

either to the High Court or to the Registrar and such application is made to the Registrar, the Registrar may, at any stage of the proceedings, refer the application to the High Court or may, after hearing the parties, determine the question between them, subject to appeal to the High Court.

Repeal and replacement of section 65

Security for costs and taxation of costs

32. The principal Act is amended by the repeal of section *sixty-five* and the substitution therefor of the following section:

65. (1) When a party to proceedings before the Registrar is resident outside Zambia, the Registrar may order such party to give security, within such time as may be directed, for the costs of the proceedings.

(2) If the party ordered to give security for costs fails to do so within the time directed, the Registrar may treat the proceedings as abandoned.

(3) Where a bond is to be given as security for costs, it shall, unless the Registrar otherwise directs, be given to the party requiring the security.

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| <p>33. Section <i>sixty-six</i> of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution thereof of "High Court".</p> | <p>Amendment
of section 86</p> |
| <p>34. The principal Act is amended by the repeal of section <i>sixty-seven</i> and the substitution thereof of the following section:</p> <p style="padding-left: 40px;">67. Any party to any proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of the High Court to the Supreme Court.</p> | <p>Repeal and
replacement
of section 87</p> <p>Appeals to
Supreme
Court</p> |
| <p>35. Section <i>seventy-one</i> of the principal Act is amended by the deletion of "or the Tribunal".</p> | <p>Amendment
of section 71</p> |
| <p>36. Section <i>seventy-six</i> of the principal Act is amended by the deletion of subsection (2) and the substitution thereof of the following subsection:</p> <p style="padding-left: 40px;">(2) No authentication shall be required in respect of any document lodged in the Trade Marks Office under the provisions of this Act.</p> | <p>Amendment
of section 78</p> |
| <p>37. The principal Act is amended by the repeal of sections <i>eighty-three</i>, <i>eighty-four</i> and <i>eighty-five</i>.</p> | <p>Repeal of
sections 83,
84 and 85</p> |
| <p>38. Section <i>eighty-seven</i> of the principal Act is amended—</p> <p style="padding-left: 40px;">(a) in subsection (2) by the deletion of "Tribunal" and the substitution thereof of "High Court";</p> <p style="padding-left: 40px;">(b) by the deletion of subsection (3);</p> <p style="padding-left: 40px;">(c) in subsection (4) by the deletion of "Tribunal" and the substitution thereof of "High Court".</p> | <p>Amendment
of section 87</p> |
| <p>39. Section <i>ninety</i> of the principal Act is amended in subsection (2) by the deletion of "or the Tribunal" and the substitution thereof of ", the High Court or the Supreme Court".</p> | <p>Amendment
of section 90</p> |
| <p>40. The Schedule to the principal Act is amended in paragraph 1 by the deletion in sub-paragraph (5) of "Tribunal" and the substitution thereof of "High Court".</p> | <p>Amendment
of Schedule</p> |

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33. Section *sixty-six* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".

Amendment

of section 66

34. The principal Act is amended by the repeal of sections *sixty-seven* and the substitution therefor of the following section:

Repeal and replacement of section 67

67. Any party to any proceedings before the High Appeals to Court may appeal in accordance with rules made under ~~~mo

this Part from any order or decision of the High Court to the Supreme Court.

35. Section *seventy-one* of the principal Act is amended by the deletion of " or the Tribunal".

36. Section *seventy-six* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following subsection:

Amendment

of section 71

Amendment of section 76

(2) No authentication shall be required in respect of any document lodged in the Trade Marks Office under the provisions of this Act.

37. The principal Act is amended by the repeal of sections *eighty-three, eighty-four and eighty-five*.

38. Section *eighty-seven* of the principal Act is amended

(a) in subsection (2) by the deletion of " Tribunal " and the substitution therefor of " High Court";

Repeal of sections 83, 84 and 85

Amendment of section 87

(b) by the deletion of subsection (3);

(c) in subsection (4) by the deletion of " Tribunal " and the substitution therefor of " High Court".

39. Section *ninety* of the principal Act is amended in subsection (2) by the deletion of " or the Tribunal " and the substitution therefor of " the High Court or the Supreme Court ".

Amendment

of section 90

40. The Schedule to the principal Act is amended in Amendment of

paragraph I by the deletion in sub-paragraph (5) of " Tribunal Schedule

"

and the substitution therefor of " High Court ".

Source: World Intellectual Property Organization
<http://www.wipo.int>