

Trade Marks Amendment Regulations 1999 (No. 2) 1999 No. 186

EXPLANATORY STATEMENT

STATUTORY RULES 1999 No. 186

Issued by the Authority of the Minister for Industry, Science and Resources

Trade Marks Act 1995

Trade Marks Amendment Regulations 1999 (No. 2)

The regulations amend the *Trade Marks Regulations 1995* (the Regulations) to:

- * provide that the deferment period in relation to a request under subregulation 4.13(1) begins on the date the Trade Marks Office receives the request;
 - * clarify that the Registrar of Trade Marks (the Registrar) is not required to give notice of an application under section 92 of the Act until the application fully complies with the requirements of the Act and Regulations;
- include filing notice of a claim to a right of priority and applying for the registration of a trade mark registration under subsection 29(1) of the Act, and requesting deferment of acceptance as prescribed acts for the purposes of section 224 of the Act;
- * provide that a Community trade mark application is equivalent to an application made in a Convention country party to the Treaty Establishing the European Community;
 - * update the schedules that modify the operation of Part 13 of the Act in relation to the External Territories;
 - * clarify that the fee prescribed in item 12 of Schedule 8 to the Regulations applies only to counsel's attendance at a hearing; and
 - * alter the hours of business of the Trade Marks Office specified in the Regulations.

Details of the amendments made by these regulations are as follows:

Regulation 1 identifies these regulations as the *Trade Marks Amendment Regulations 1999* (No. 2).

Regulation 2 specifies that regulations 1, 2, 3 and Schedule 1 are to commence on gazettal; Schedule 2 is to commence on 6 September 1999.

Regulation 3 specifies that Schedules 1 and 2 amend the Regulations.

Item 1 of Schedule 1 amends regulation 4.14 of the Regulations to provide that the period of deferment under subregulation 4.13(1) commences on the date the Trade Marks Office receives the request.

Item 2 of Schedule 1 amends paragraph 4.14(3)(b) of the Regulations so that the period of deferment ends 6 months after deferment commences, rather than 6 months after the date of the notice of deferment.

Item 3 of Schedule 1 amends regulation 9.2 of the Regulations to clarify that the Registrar is to give notice of an application under section 92 of the Act within one month after the application is made in accordance with the requirements of the Act and Regulations.

Item 4 of Schedule 1 amends note 2 to regulation 13.2 of the Regulations, to replace the reference to 'Comptroller' with a reference to 'Customs CEO'.

Item 5 of Schedule 1 amends the heading to regulation 13.3 of the Regulations to replace the reference to 'Comptroller' with a reference to 'Customs CEO'.

Item 6 of Schedule 1 amends regulation 21.28 of the Regulations to clarify that both filing notice of a claim to priority and applying for registration of a trade mark within the six month period provided under subsection 29(1), are prescribed acts for the purposes of section 224 of the Act.

Item 7 of Schedule 1 amends regulation 21.28 of the Regulations to include the requesting of deferment of acceptance under subregulation 4.13(1), as a prescribed act for the purposes of section 224 of the Act.

Item 8 of Schedule 1 amends regulation 21.29 of the Regulations to include a new subregulation to provide that a Community trade mark application is equivalent to an application made in each Convention country party to the Treaty Establishing the European Community.

Items 9, 10 and 12 of Schedule 1 amend items 2.1, 3.2 and 4.1 of Schedule 3 to the Regulations to replace the references to 'Customs Ordinance 1913', with 'Customs Act 1913 of Norfolk Island'.

Item 11 of Schedule 1 amends item 4.1 of Schedule 3 to the Regulations to replace the reference to 'Minister' with 'Executive Member'.

Items 13, 14 and 15 of Schedule 1 amend Schedule 4 to the Regulations, to substitute 'Customs CEO' with 'Comptroller'.

Items 16, 17 and 18 of Schedule 1 amend Schedule 5 to the Regulations, to substitute 'Customs CEO' with 'Comptroller'.

Item 19 of Schedule 1 amends item 12 of Schedule 8 to the Regulations to clarify that the fee specified in this item only applies to counsel's attendance at a hearing.

Item 20 of Schedule 1 amends regulations 13.3, 21.22, 21.23 and Schedule 3 to the Regulations, to replace the references to 'Comptroller' with 'Customs CEO'.

Item 1 of Schedule 2 amends regulation 19.1 to extend the hours of business of the Trade Marks Office, from 10 am to 4 pm, to 9 am to 5 pm.