

GUERNSEY STATUTORY INSTRUMENT

2016 No.

**The Trade Marks (Register of Trade
Mark Agents) Regulations, 2016**

Made , 2016
Coming into operation , 2016
Laid before the States , 2016

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by sections 80, 81, 85 and 101 of the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006^a and all other powers enabling it in that behalf, hereby makes the following Regulations:-

Requirement for registration.

1. Any act required or authorised by the Ordinance to be done by or in relation to a person in connection with the registration of a trade mark, or any procedure relating to a registered trade mark, can only be done -

- (a) by that person, or
- (b) by a trade mark agent whose name is entered on the Register of Trade Mark Agents in accordance with these regulations.

^a Recueil d'Ordonnances Tome XXXI, pp. 1 and 622.

Register of Trade Mark Agents.

2. (1) The Registrar shall keep and maintain the register of trade mark agents ("**the Register**").

(2) The Register shall be kept in such manner as the Registrar may determine and may be kept in paper or electronic form.

(3) The Register shall contain the names, business addresses, dates of registration, contact details, relevant experience and qualifications, and such other particulars as the Registrar thinks fit, of each registered trade mark agent.

(4) The Registrar shall not enter in the Register the particulars of any person unless that person -

(a) is a qualifying person,

(b) has a business address within the Bailiwick, and

(c) has paid to the Registrar the relevant registration fee.

(5) For the purposes of this Regulation -

"qualifying person" means a natural person who is ordinarily resident in the Bailiwick and who is -

(a) an Advocate of the Royal Court of Guernsey,

(b) a member of the Bar of England and Wales, Northern

Ireland or the Faculty of Advocates in Scotland,

- (c) a Solicitor of the Senior Courts of England and Wales, of the Court of Judicature of Northern Ireland, or in Scotland,
- (d) a person whose name is entered on the register of trade mark attorneys kept under section 83 of the Trade Marks Act 1994^b,
- (e) a corporate services provider within the meaning of the Companies (Guernsey) Law, 2008^c, or
- (f) such person who, by reason of that person's qualifications or experience, the Department, after consultation with the Registrar, determines to be fit and proper to act as a registered trade mark agent, and

"relevant registration fee" means such sum, not exceeding £2,000, as the Registrar may by rules specify.

- (6) The Registrar may require a person to provide such additional information and documents as the Registrar may reasonably require for the purpose of determining whether such a person satisfies the criteria required under paragraph (4).

^b An Act of Parliament (1994 c. 26).

^c Order in Council No. VIII of 2008; there are amendments not relevant to this provision.

Annual registration fee.

3. (1) A person whose particulars are entered on the Register shall, on or before the 31st December in each year, other than the year in which that person's particulars are first entered on the Register, pay to the Registrar an annual registration fee of such sum, not exceeding £2,000, as the Registrar may by rules specify.

(2) Prior to the payment of the annual registration fee, the Registrar may require confirmation from a person referred to in paragraph (1) that that person continues to satisfy the criteria required under regulation 2(4) and that the particulars entered on the Register in relation to that person are correct.

(3) The Registrar may require a person to provide such additional information and documents as the Registrar may reasonably require for the purpose of providing confirmation to the Registrar under paragraph (2) that such person continues to satisfy the criteria required under regulation 2(4).

Amendment and correction of the Register.

4. (1) A person whose particulars are entered on the Register shall notify the Registrar promptly of any change in the particulars relating to that person entered in the Register and the Registrar shall, on the payment of an amendment fee of such sum not exceeding £100, as the Registrar may by rules specify, amend the Register accordingly provided that such person continues to satisfy the criteria required under regulation 2(4).

(2) Any person may apply for the correction of such an entry in the Register to the Registrar who may, upon being satisfied that such entry has been made in error or that any entry is incorrect, correct the entry in whatever manner seems most appropriate.

(3) No correction of any entry under paragraph (2) shall be made unless the Registrar has first notified the proposed correction to the person appearing to the Registrar to be affected, has given that person the opportunity to make written representations regarding the same and has taken into account any such representations.

Erasure, suspension and refusal to recognise.

5. (1) The Registrar may -

- (a) erase from the Register the name of any person registered in it, or
- (b) suspend a person's registration,

on any of the grounds specified in paragraph (2).

(2) The grounds are that -

- (a) the person has ceased to be a qualifying person or to have a business address within the Bailiwick,
- (b) the person has not paid the annual registration fee due in accordance with regulation 3,
- (c) the person, in the opinion of the Registrar -
 - (i) is guilty of misconduct or incompetence,
 - (ii) has breached, or failed to observe, the rules of professional conduct or a code of practice

applicable to that person, or any other code of practice as the Registrar may by rules specify, or

- (iii) is otherwise not a fit and proper person to act as a registered trade mark agent.

(3) The Registrar may refuse to recognise as agent in respect of any business under the Ordinance any person described in section 85(1) of the Ordinance.

Interpretation.

6. (1) In these Regulations, unless the context requires otherwise -

"**enactment**" includes an Act of Parliament, a Law, an Ordinance and any subordinate legislation and includes any provision or portion of such an Act of Parliament, Law, Ordinance or subordinate legislation,

"**the Ordinance**" means the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006,

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance,

and other expressions have the same meanings as in the Ordinance.

Minister of the Commerce and Employment Department
For and on behalf of the Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide, in accordance with section 80 of the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006, that application for registration of a trade mark as agent for another person, and other matters under the Ordinance related to such trade marks, can only be done by a trade mark agent registered as such by the Registrar. The Regulations make provision for the establishment and maintenance of such a register, for the qualifications required for eligibility to be so registered, for registration and annual fees and for the grounds upon which a person's name may be removed from the register or the registration suspended.

These Regulations come into force on the [] day of [], 20[].