



GUERNSEY STATUTORY INSTRUMENT

No. 107

The Trade Marks (Fees) Regulations, 2010

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| <i>Made</i> | <i>1st December, 2010</i> |
| <i>Coming into operation</i> | <i>1st January, 2011</i> |
| <i>Laid before the States</i> | <i>2011</i> |

THE COMMERCE AND EMPLOYMENT DEPARTMENT, in exercise of the powers conferred on it by section 2 of the Intellectual Property (Office of Registrar) (Bailiwick of Guernsey) Ordinance, 2005^a, section 76 of The Trade Marks (Bailiwick of Guernsey) Ordinance, 2006^b and all other powers enabling it in that behalf, hereby makes the following Regulations –

Purpose of regulations.

1. The purpose of these regulations is to prescribe the fees payable to the Registrar in respect of the applications and registrations and other matters under the Ordinance.

Fees.

2. (1) The fees set out in column 3 of the Schedule are payable to the Registrar by the –

- (a) proprietor of the registered trade mark,

^a Ordinance No. XXIX of 2005

^b Ordinance No. I of 2006; as amended by the Trade Marks (Bailiwick of Guernsey) (Amendment) Ordinance, 2006 (No. XXXIX of 2006). See also the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (No. VIII of 2004).

- (b) applicant for registration of a trade mark,
- (c) an authorised representative of the person mentioned in sub-paragraphs (b) or (c), or
- (d) any other person making a relevant request or enquiry,

for the service mentioned in column 1 of the Schedule in respect of which the fee is payable.

Interest

3. If any fee or fees due under these Regulations is not paid when it is due, the Registrar shall without prejudice to any other remedy in respect of the non-payment be entitled to the payment of interest calculated on that fee or fees at the rate of 10% per annum from the date on which payment became due to that on which payment was made.

Registrar's power to reduce or waive fees

4. (1) The Registrar may after consultation with, and approval by, the Department, reduce, waive or repay any of the fees set out in these Regulations and any other such fees as may be prescribed by Regulations of the Department.

(2) Without prejudice to paragraph (1), the Registrar shall have the power, in individual or particular circumstances, to reduce, waive or repay a fee set out in these Regulations in the following circumstances –

- (a) promotional activities and events; or
- (b) an error or omission by the Office of the Registrar.

Interpretation.

5. (1) In these regulations –

"charity" -

- (a) means any organisation established for charitable purposes only, and
- (b) where any property or fund the income whereof is applicable to charitable purposes only is entrusted to any person, means, in relation to that property or fund and the income thereof, that person,

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

"non profit organisation" means any organisation established solely or principally either for the non-financial benefit of its members or for the benefit of society or any class or part of society and, without limitation, includes any organisation established solely or principally for social, fraternal, educational, cultural or religious purposes, or for the carrying out of any other types of good works, and includes a charity,

"organisation" includes a body of persons (corporate or unincorporate), a trust, any other legal entity, any equivalent or similar structure or arrangement and, where paragraph (b) of the definition of "charity" applies, any such person as is referred to in that paragraph, and

^c Ordinance No. I of 2006; as amended by the Trade Marks (Bailiwick of Guernsey) (Amendment) Ordinance, 2006 (No. XXXIX of 2006). See also the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (No. VIII of 2004).

other words or expressions have the same meaning as in the Ordinance.

(2) The notes set out in column 4 of the Schedule are only for the purposes of general guidance and are without prejudice to any provision of, or liability arising under, the Ordinance or these regulations, or any practice or procedures adopted by the Registrar.

(3) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of these regulations.

Repeal.

6. The Trade Marks (Fees) Regulations, 2009^e are repealed.

Citation.

7. These regulations may be cited as the Trade Marks (Fees) Regulations, 2010.

Commencement.

8. These regulations shall come into force on the 1 January 2011.

Dated this ^{18th} day of December, 2010



Deputy Carla McNulty Bauer

Minister of the Commerce and Employment Department

^d Ordres en Conseil Vol. XIII, p. 355.

^e Made on 21 April 2009.

For and on behalf of the Department

SCHEDULE

Regulation 2

FEES

| (1) Service | (2) Section of the Ordinance | (3) Fee | (4) Notes |
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| Trade Mark Applications | | | |
| Application for Primary registration of a trade mark | Section 32(4) | £300 | Includes one class of goods or services. |
| Application for Primary registration of a trade mark by a non profit organisation | Section 32(4) | £100 | Includes one class of goods or services. |
| Application for Primary registration of a trade mark by a charity | Section 32(4) | No fee | Includes one class of goods or services. |
| Application to register a trade mark which has previously been registered in another country | Section 32(4) | £180 | Includes one class of goods or services. |
| Class fee for each additional class of goods or services | Section 32(4) | £20 | |
| Application to divide an application for registration into two or more separate applications | Section 41(1)(a) | £100 | This fee is in addition to the application fee payable under section 32(4). |
| Filing regulations governing the use of a collective mark or a certification mark | Paragraph 5(1) of Schedule 1 and paragraph 6(1) of Schedule 2 | £200 | |
| Opposition Proceedings | | | |
| Filing notice of opposition | Section 38(2) | £250 | |
| Trade Mark Maintenance | | | |
| Request for the renewal of a trade (including trade marks which have been restored to the Register) | Section 43(1) | £150 | Includes one class of goods or services |

| (1) Service | (2) Section of the Ordinance | (3) Fee | (4) Notes |
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| Class fee for each additional class of goods or services upon renewal | Section 43(1) | £20 | |
| Additional renewal fee payable upon a request for renewal that is made during the six month grace period after the expiry of the registration. | Section 43(3) | £10, plus £10 per calendar month that has elapsed since the date of expiry up to the date of the request for renewal | After the six month grace period an application for restoration of the trade mark to the Register may be made to the Registrar. |
| Application, which includes a statement of reasons, for the restoration of a trade mark which has been removed from the Register | Section 43(5) | £150 | |
| Request to amend an application | Section 39(2) | £25 | |
| Request to amend the proprietor's name, address or other particulars in relation to a registered trade mark | Section 76(1) | £25 | |
| Request to amend the registered representative in relation to a registered trade mark | Section 76(1) | £5 | |
| Alteration of a registered trade mark (request to amend the proprietor's name or address as it appears in the representation of the registered trade mark) | Section 44(2) | £100 | |
| Application for the rectification of the Register | Section 62 | £25 | |
| Filing amended regulations governing the use of a registered collective mark or a registered certification mark | Paragraph 10(1) of Schedule 1 and paragraph 11(1) of Schedule 2 | £50 | |
| Trade Mark Rights Management | | | |
| Application to register a registerable transaction | Section 25 | £50 | This includes an application for partial assignment. |
| Filing of a document in support of an application or request made to the Registrar | Section 76 | £10 per document | Examples include, without limitation, deed of assignment, power of attorney, statement of reasons. |

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| Application to merge two separate applications or registrations | Section 41(1)(b) | £50 for the merger of two separate applications or registrations plus an additional £50 for each application or registration merged thereafter | |
| Application for a declaration of invalidity | Section 47(8) | £200 | |
| Application for the revocation of a registered trade mark | Section 46(4) | £200 | |
| Search and Information Services | | | |
| Request for a search report of the Register in relation to a particular trade mark | Section 65(1) | £25 | |
| Request for an uncertified trade mark profile or an extract of the Register in relation to a registered trade mark | Section 65(1) | £50 | |
| Request for a search report of the Register in relation to a proprietor provided that the consent of the proprietor has been received | Section 65(1) | £100 | This is per search criteria provided (i.e. variances on the same proprietor name are charged separately) |
| Request for an electronic copy of a file document in relation to a registered trade mark | Section 65(1) | £10 | |
| Request for a paper copy of a file document in relation to a registered trade mark | Section 65(1) | £20 | |
| Request for proof of priority in relation to the filing of a registered trade mark application | Section 65(1) | £25 | This includes a certified copy of the application submission together with the filing date |
| Request for an uncertified copy of an entry on the Register in relation to a registered trade mark | Section 65(1) | £25 | |
| Request for a certified copy of an extract of the Register in relation to a registered trade mark | Section 65(1) | £50 | |
| Request for the issue of a replacement certificate of registration | Section 76 | £25 | This request must include evidence of ownership. |
| Request for a certified copy of a | Section 76 | £50 | |

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| certificate of registration | | | |
| Request for a certified copy of the entry of a submission in the Register made in relation to a registered trade mark | Section 76 | £25 | |
| Exceptional Services | | | |
| Statement to the Ordinary Court from the Registrar (or a duly authorised officer) | Section 72 | £100 per hour | This includes time spent on the preparation of the Statement by the Registrar or a duly authorised officer. |
| Appearance of the Registrar (or a duly authorised officer) in the Ordinary Court | Section 72 | £100 per hour | This includes time spent by the Registrar or a duly authorised officer on the preparation for any court appearance in addition to time spent in court. |
| Request for the extension of time by one month | Section 75 | £25 | This request cannot be made on more than three consecutive occasions. This request cannot be made in relation to a notice of opposition. |
| Administrative fee for handling an approved refund | Section 76 | £20 | The £20 fee is deducted from the refund amount |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations prescribe the fees payable to the Office of the Registrar of Intellectual Property for applications and other matters in respect of the performance of the Registrar's functions under the Trade Marks (Bailiwick of Guernsey) Ordinance, 2006.