

**SUDAN**

**Trade Marks Rules**

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TABLE OF CONTENTS

- Rule 1. TITLE
- Rule 2. INTERPRETATION
- Rule 3. FEES
- Rule 4. FORMS
- Rule 5. CLASSIFICATION OF GOODS
- Rule 6. FORMS OF DOCUMENTS
- Rule 7. METHOD OF SERVICES
- Rule 8. ADDRESS
- Rule 9. ADDRESS IN THE SUDAN
- Rule 10. AGENTS
- Rule 11. APPLICATION BY A FIRM OR PARTNERSHIP ETC.
- Rule 12. ADDRESS OF APPLICATIONS
- Rule 13. REGISTRAR TO ACKNOWLEDGE RECEIPT OF APPLICATION
- Rule 14. REPRESENTATION OF THE MARK
- Rule 15. ADDITIONAL REPRESENTATIONS
- Rule 16. REPRESENTATIONS TO BE OF A DURABLE NATURE
- Rule 17. REGISTRATION OF MARK IN DIFFERENT CLASSES
- Rule 18. POWER OF REGISTRAR TO ORDER DUPLICATE REPRESENTATION
- Rule 19. FORM OF DRAWING
- Rule 20. TRANSLATION OF FOREIGN WORDS
- Rule 21. PROCEDURE ON RECEIPT OF APPLICATION
- Rule 22. ACCEPTANCE OF REGISTRATION
- Rule 23. OBJECTION TO REGISTRATION
- Rule 24. MODIFICATION OF APPLICATION
- Rule 25. DECISION OF REGISTRAR
- Rule 26. DISCLAIMER
- Rule 27. APPLICATIONS
- Rule 28. ADVERTISEMENT OF APPLICATIONS
- Rule 29. NON-COMPLETION OF APPLICATIONS
- Rule 30. ENTRY ON THE REGISTER
- Rule 31. DEATH OF APPLICANT
- Rule 32. CERTIFICATE OF REGISTRATION
- Rule 33. RENEWAL OF REGISTRATION
- Rule 34. REMOVAL OF TRADE MARK FROM REGISTER
- Rule 35. ASSIGNMENT

- Rule 36. PROOF OF TITLE TO A TRADE MARK
- Rule 37. ALTERATION OF ADDRESS OR NAME
- Rule 38. DISCRETIONARY POWER
- Rule 39. APPLICATION FOR HEARING
- Rule 40. PERIOD OF NOTICE
- Rule 41. DECISION OF REGISTRAR
- Rule 42. SEARCH
- Rule 43. LIABILITY OF REGISTRAR
- Rule 44. HOURS OF INSPECTION
- Rule 45. APPLICATION TO THE COURT
- Rule 46. PUBLICATION OF THE ORDERS OF THE COURT

**Rule 1. TITLE**

These rules may be cited as "The Trade Marks Rules 1969".

**Rule 2. INTERPRETATION**

In the construction of those rules, words herein used shall have the meaning attributed to them in the Trade Marks Act 1969 and in addition: "The Act" shall mean the Trade Marks Act, 1969.

"Agent" shall mean an agent duly authorized to the satisfaction of the Registrar.

"Office" shall mean the office of the Registrar of Trade Marks in the Ministry of Commerce and Supply or such other office as may be appointed by the Minister of Commerce and Supply under Section 4 of the Act.

**Rule 3. FEES**

The fees to be paid in pursuance of the Act shall be the fees specified in the First Schedule to these Rules, or any other amendment approved by the Minister of Supply and Internal Trade with the consent of the Minister of Finance and Economics.

**Rule 4. FORMS**

The forms herein referred to are the forms contained in the Second Schedule to these Rules and such forms shall be used in all cases to which they are applicable and shall be modified as may be directed by the Registrar.

**Rule 5. CLASSIFICATION OF GOODS**

For the purpose of trade marks registration and of these Rules goods are classified in the manner appearing in the Third Schedule hereto.

If any doubt arises as to what any particular description of goods belongs, the doubt shall be determined in writing by the Registrar.

**Rule 6. FORMS OF DOCUMENTS**

Subject to any other directions that may be given by the Registrar, all applications, notices, statements or other documents required by the Act or by these Rules to be left with or sent to the Registrar shall be upon foolscap paper of a size of approximately thirteen inches by eight inches, and shall have on the left hand part thereof a margin of not less than one inch and a half.

**Rule 7. METHOD OF SERVICES**

Any application, statement, notice, or other document authorized or required to be left, with the Registrar or to be sent by the Registrar

to any other person through the post shall be sent by registered letter; any document so sent shall be deemed to have been delivered at the time when the letter containing the same would be delivered in the ordinary course of post. A letter addressed to a registered proprietor of a trade mark at his address as it appears on the register, or address for service, or to any applicant or person opposing the registration of a trade mark at the address appearing in the application or notice of opposition or given for service as hereinafter provided, shall be deemed to be sufficiently addressed.

**Rule 8. ADDRESS**

Where a person is by the Act or these Rules bound to furnish the Registrar with an address, the address given shall in all cases be as full as possible.

**Rule 9. ADDRESS IN THE SUDAN**

Every applicant for the registration of any trade mark and every opponent to such registration and every agent who does not reside or carry on business in the Sudan shall, if so required, give an address for service in the Sudan.

The Registrar may require the proprietor of a registered trade mark who does not reside or carry on business within the Sudan to give an address for service within the Sudan.

**Rule 10. AGENTS**

A qualified person under Section 15 of the Act may apply to the Registrar for recognition as a trade marks agent. The Registrar shall consider only as agent a person so recognized by him.

**Rule 11. APPLICATION BY A FIRM OR PARTNERSHIP ETC.**

(1) If application for registration of a trade mark be made by a firm or partnership, it may be signed in the name or on behalf of the firm or partnership by any one or more members thereof. If the application is made by a company or corporation, it may be signed by a director or by the secretary or other principal officer of such corporation.

(2) An application shall contain all the particulars required by Section 9 of the Act for the purpose of subsections (1) and (4) of Section 10, the application shall be accompanied by such proof of nationality or non-change of nationality as may satisfy the Registrar.

(3) Any application may be signed by an agent.

**Rule 12. ADDRESS OF APPLICATIONS**

All applications for registration of a trade mark shall be addressed and sent to the Registrar at the Office.

**Rule 13. REGISTRAR TO ACKNOWLEDGE RECEIPT OF APPLICATION**

On or after receipt of the application the Registrar shall furnish the applicant with an acknowledgement thereof on the Form TM No. 5.

**Rule 14. REPRESENTATION OF THE MARK**

Every application for registration of a trade mark which has not been advertised in the Gazette shall contain the representation of the mark affixed to it in the square which the Form TM No. 1 contains for the purpose. Where the representation exceeds such square in size the representation shall be mounted upon linen, tracing cloth or other material that the Registrar may consider suitable. Part of the mounting shall be affixed in the square aforesaid and the rest may be folded over.

**Rule 15. ADDITIONAL REPRESENTATIONS**

There shall be sent with every application for registration of a trade mark four additional representations of such mark on the Form TM. No. 2 exactly corresponding to that affixed to the application Form TM No. 1, and noted with all such particulars as may from time to time be required by the Registrar. Such particulars shall, if required, be signed by the applicant or his agent.

**Rule 16. REPRESENTATIONS TO BE OF A DURABLE NATURE**

All representations of marks shall be of a durable nature, but the applicant may, in case of need, supply in place of representations on the Form TM. No. 2, half sheets of strong foolscap of the size aforesaid with the representations affixed thereon and noted as aforesaid.

**Rule 17. REGISTRATION OF MARK IN DIFFERENT CLASSES**

Applications for registration of the same mark in different classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods in more than one class, the registration shall henceforth for the purpose of fee and otherwise be deemed to have been made on separate and distinct applications in respect of the goods included in each class.

**Rule 18. POWER OF REGISTRAR TO ORDER DUPLICATE REPRESENTATION**

The Registrar, if dissatisfied with any representation of a mark, may at any time require another representation satisfactory to him to be substituted before proceeding with the application.

**Rule 19. FORM OF DRAWING**

Where a drawing or other representation or specimen cannot be given in the manner aforesaid, a specimen or copy of the trade mark may be sent in such form as the Registrar may think most convenient. The Registrar may also in exceptional cases deposit in the office a specimen or copy of any trade mark which cannot be conveniently shown by a representation, and may refer thereto in the register in such manner as he may think fit.

**Rule 20. TRANSLATION OF FOREIGN WORDS**

Where a trade mark contains a word or words in a language other than English or Arabic, the Registrar may ask an exact translation thereof; the translation shall be authenticated by a competent authority and if the Registrar so requires, such translation shall be endorsed and signed by the applicant or his agent.

**Rule 21. PROCEDURE ON RECEIPT OF APPLICATION**

Upon receipt of an application for registration, the Registrar shall cause a search to be made amongst the registered marks and pending applications for the purpose of ascertaining whether there are on record any marks for the same goods or description of goods identical with the mark applied for or so nearly resembling it as to be calculated to deceive.

**Rule 22. ACCEPTANCE OF REGISTRATION**

If the Registrar is of opinion that there is no objection to the mark being registered, he may accept it absolutely or subject to conditions, amendments, and modifications which he shall communicate to the applicant in writing, in the Form TM No. 6.

**Rule 23. OBJECTION TO REGISTRATION**

If any objections appear, a statement of these objections shall be sent to the applicant in writing and, unless within one month the applicant applies for a hearing, he shall be deemed to have accepted the objections conveyed to him.

**Rule 24. MODIFICATION OF APPLICATION**

If the Registrar accepts an application subject to any conditions,

amendments, or modifications, and the applicant objects to such conditions, amendments or modifications, he shall within one month from the date of the communication notify his objection and apply for a hearing, and if he does not do so he shall be deemed to have accepted.

**Rule 25. DECISION OF REGISTRAR**

The decision of the Registrar and the grounds thereof shall be communicated to the applicant in writing by registered mail and the date of registration of the letter shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

**Rule 26. DISCLAIMER**

The Registrar may call on any applicant to insert in his application such disclaimer as the Registrar may think fit.

**Rule 27. APPLICATIONS**

(1) An application to register a mark under Section 9 or for reclassification under Section 13 of the Act shall be made on Form TM No. 1 & 3 respectively.

(2) An application to register a service mark shall be made on Form TM No. 1.

(3) An application under Section 22 of the Act shall be made on Form TM No. 4 and shall be accompanied by a certified copy of the license contract.

(4) Renunciation under Section 23 of the Act must be notified in the form of a written declaration to the Registrar who shall record it in the register and publish it as soon as possible. Renunciation shall be effective only after it has been recorded.

(5) An application for cancellation of registration under Section 24 of the Act shall be filed within five years from the date of registration.

**Rule 28. ADVERTISEMENT OF APPLICATIONS**

(1) Every application under Section 9 of the Act when accepted shall be advertised by the Registrar in the Gazette during such time and in such manner as the Registrar may direct and at the expense of the applicant.

(2) If no representation of the trade mark be inserted in connection with the advertisement of an application, the Registrar shall refer in such

advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.

(3) For the purpose of such advertisement the applicant may be required to furnish at his expense a wood block or electro-type (or more than one if necessary) of the trade mark, of such dimensions and character as may from time to time be directed by the Registrar, or such other information or means of advertising the trade mark as may be required by the Registrar.

(4) The applicant shall furnish at his own expense an Arabic translation of the matter required for such advertisement.

**Rule 29. NON-COMPLETION OF APPLICATIONS**

The notice of the non-completion of an application under Section 9(3) of the Act shall be sent by the Registrar in writing in the Form TM No. 7 if after 30 days from the date when such notice was sent the application is not completed. The application shall be deemed to be abandoned, but the Registrar may where the applicant lives at a distance, give a further time after such 30 days for the completion of such application.

**Rule 30. ENTRY ON THE REGISTER**

As soon as may be after the expiration of six months from the date of the advertisement in the Gazette of any application the Registrar shall, subject to any opposition and the determination thereof and upon payment of the prescribed fee, enter the trade mark on the register. The entry of a trade mark on the register shall contain mention of the date of the registration, the goods in respect of which it is registered and all particulars set forth in Section 4 of the Act together with particulars of the trade, business, profession or occupation, if any, of the proprietor and such other particulars as the Registrar may deem necessary.

**Rule 31. DEATH OF APPLICANT**

In the case of the death of any applicant for a trade mark after the date of his application and after the trade mark applied for has been entered on the register, the Registrar whether after or before the expiration of the prescribed period of advertisement may, on being satisfied of the applicant's death, enter on the register, in place of the name of such deceased applicant, the name, address and description of the person owning the goodwill of the business on such ownership being proved to the satisfaction of the Registrar.



**Rule 32. CERTIFICATE OF REGISTRATION**

Upon the registration of a trade mark, or a registered user the Registrar shall issue to the applicant a certificate on Form TM No. 9 or Form TM No. 10.

**Rule 33. RENEWAL OF REGISTRATION**

(1) At any time not less than two and not more than three months before the expiration of the last registration of a trade mark, the proprietor of the mark or his agent may apply on Form TM No. 13 for the renewal of the registration of the mark and deposit the prescribed fee at the office of the Registrar.

Any applicant shall endorse upon the form his name, nationality and address in the Sudan. The Registrar may require an applicant other than the registered proprietor or his agent to furnish within one month an authority to pay the fee signed by the registered proprietor and if he does not produce such authority the Registrar may return the fee.

In any other case the Registrar shall inform the registered proprietor or his agent that the fee has been received and that the registration will be renewed.

(2)(a) At a date not less than two and not more than three months before the expiration of the last registration of a trade mark, if no application for renewal has been made, the Registrar shall send to the registered proprietor to his registered address a notice in the Form TM No. 14.

(b) If on the date of expiration of the registration of the trade mark the renewal fee has not been paid, the Registrar shall advertise the fact forthwith in the Gazette and if within two months of such advertisement application for renewal and payment of the fee together with the additional fee prescribed are received, he may renew the registration without removing the mark from the Register.

(3) The above provisions shall apply to registered users provided that the conditions of Section 19(4) of the Act are complied with.

**Rule 34. REMOVAL OF TRADE MARK FROM REGISTER**

(1) Where after two months from such advertisement as in Rule 33(2)(b) the prescribed fees have not been paid, the Registrar may remove the mark from the register as from the date of the expiration of the last registration; but if subsequently the renewal fee and the additional prescribed fee are paid, he may restore the mark to the register where he is satisfied that it is just to do so, and upon such conditions as

he may think fit.

Where a trade mark is removed from the register, the Registrar shall cause to be entered in the register a record of the removal and of the cause thereof.

(2) A notice of the removal of the registration shall be sent to the registered proprietor, in the Form TM No. 16 and the removal shall be advertised in the Gazette.

**Rule 35. ASSIGNMENT**

(1) An application for assignment under Section 21 of the Act shall be made on the Form TM No. 11 and the assignee shall furnish a sworn declaration on Form TM No. 12.

(2) In case of an application by a person abroad the assignment must be accompanied by the certificate required under Section 10(2) of the Act.

(3) In cases in which the ownership of a trade mark has devolved by reason of the death of the registered proprietor, the person entitled on such devolution may apply in like manner so far as may be possible for registration as proprietor thereof.

(4) Applicants for registration under this Section shall produce to the Registrar the certificate of registration of the trade mark.

**Rule 36. PROOF OF TITLE TO A TRADE MARK**

In any case the Registrar may call on any person who desires to be registered as proprietor of a trade mark for such proof or additional proof of title and of the existence and ownership of such goodwill as the Registrar may require.

**Rule 37. ALTERATION OF ADDRESS OR NAME**

Every registered proprietor of a trade mark who change his address or name shall forthwith apply to the Registrar to insert the new address or name on the register, and the Registrar shall upon payment of the prescribed fee alter the register accordingly.

**Rule 38. DISCRETIONARY POWER**

Before exercising any discretionary power given to the Registrar by the Act, the Registrar shall, if so required hear the person who will be affected by the exercise of such power.

**Rule 39. APPLICATION FOR HEARING**

An application for a hearing shall be made within one month from the date when the matter on which the Registrar is called on to exercise discretionary power has arisen.

**Rule 40. PERIOD OF NOTICE**

Upon receipt of such application, the Registrar shall give the applicant ten days' notice of time when he may be heard by himself or his agent. Within five days from the date when such notice would be delivered in the ordinary course of post, the applicant shall notify the Registrar whether or not he intends to be heard on the matter.

**Rule 41. DECISION OF REGISTRAR**

The decision of the Registrar in the exercise of any such discretionary power as aforesaid shall be notified to the persons affected.

**Rule 42. SEARCH**

The Registrar, if required to do so in writing upon Form TM No. 15 and upon payment of the prescribed fee, may cause a search to be made in any class to ascertain whether any marks are on record at the date of such search which may resemble any mark sent in duplicate to him by the person requesting such search, and may cause that person to be informed of the result of such search.

**Rule 43. LIABILITY OF REGISTRAR**

The Registrar shall not incur any liability at law for any inaccuracy appearing in a statement or notification as the result of any search made under these rules.

**Rule 44. HOURS OF INSPECTION**

The office shall be open to the public every day of the week between the hours of 9 and 12 except on days which are officially recognized as public holidays or such days as may from time to time be notified by a notice posted in a conspicuous place at the office of the Registrar.

Any person desiring to inspect the register may do so at any time at which the office is open during the hours limited as above subject to payment of the prescribed fee.

**Rule 45. APPLICATION TO THE COURT**

(1) Application to the Court shall be made in accordance with the procedure

established by the Civil Justice Ordinance and the rules of Court thereunder, provided that such application shall be made within one month from the decision appealed against or within such further time as the Registrar shall allow. Such applications shall be heard as a suit and fees paid.

(2) When the Registrar refuses to accept an application for registration of a trade mark and an appeal is made to the Court against his decision under Section 16(2) of the Act, the Registrar shall advertise his refusal in the Gazette. The date of such advertisement shall be deemed to be the date of the application; and any person may within six months from the date of publication file at the Court a notice of opposition to the registration.

**Rule 46. PUBLICATION OF THE ORDERS OF THE COURT**

The Registrar shall cause to be published in the Gazette any order of the Court under the Act when such publication seems desirable. Cost of publication shall be paid by the successful party.