

SUBSIDIARY LEGISLATION 416.02**COMMUNITY TRADEMARK RULES**

1st May, 2004

LEGAL NOTICE 233 of 2003, as amended by Legal Notice 426 of 2007.

1. The title of these rules is the Community Trademark Rules. Citation.
2. In these rules - Interpretation.
 "the Act" means the Trademarks Act, and the words and expressions used shall have the same meaning as is given to them in the Act; Cap. 416.
 "the Community Trademark Regulation" means Council Regulation (EC) No. 40/94 of 20th December, 1993 on the Community Trademark, and Community Trademark shall have the same meaning stipulated therein.
3. References to any article in the marginal notes to these rules shall be deemed as references to any article, or subarticle or paragraph thereof, of the Act and include any power to make rules by virtue also of the same article. References to the Act.
4. The fees to be paid in respect of any application, registration or any other matter under these rules shall be those prescribed in the Schedule of Fees to these Rules. Fees.
5. (1) Where the proprietor of a Community Trademark claims the seniority of a registered trademark which has been removed from the register under article 39 or has been surrendered under article 41, application may be made to the registrar or to the court by any person for a declaration that, if the registered trademark had not been so removed or surrendered, it would have been liable to be revoked under article 42 or declared invalid under article 43. Determination *a posteriori* of invalidity and liability to revocation.
 (2) Where a registered trademark has been surrendered in respect of some only of the goods or services for which it is registered, sub-rule (1) shall apply in relation to those goods or services.
 (3) The provisions of articles 42 or 43, as the case may be, articles 61, 63 and 64, with necessary modifications, apply in relation to an application under sub-rule (1).
6. The provisions of article 20 shall apply in relation to a Community Trademark as in relation to a registered trademark. Groundless threats of infringement proceedings.
7. The provisions of article 70 (privilege for communications between a person and his registered trademark agent) apply in relation to persons on the list of professional representatives maintained in pursuance of Article 89 of the Community Trademark Regulation ("professional representatives") and for this purpose the definition of "trademark agent" in article 69 of the Act includes professional representatives. Privilege for communications with professional representatives.

- Offences. **8.** The provisions of articles 72 to 86 regarding criminal offences committed in respect of locally registered marks shall apply in relation to a Community Trademark and for the purposes of those provisions -
- (a) references to a registered trademark shall include a Community Trademark;
 - (b) references to goods or services in respect of which a trademark is registered shall include goods or services in respect of which a Community Trademark is registered.
- Designation of Community Trademark courts. **9.** For the purposes of Article 91 of the Community Trademark Regulation, the following courts are designated as Community Trademark courts:
- (a) the First Hall of the Civil Court;
 - (b) the Court of Appeal.
- Conversion. **10.** (1) The provisions of this regulation apply where the applicant for or the proprietor of a Community Trademark requests the conversion of his Community Trademark application or Community Trademark into an application for registration of a trademark under the Act ("conversion application") pursuant to Article 108 of the Community Trademark Regulation.
- (2) Where the Comptroller decides that a request for a conversion application is admissible pursuant to Article 108, it shall be treated as an application for registration of a trademark under the Act.
- (3) A decision of the Comptroller in relation to a conversion application shall be treated as a decision of the Comptroller under the Act.
- Applicability of regulations. S.L. 416.01 **11.** Except as otherwise provided, or where their application would be inconsistent with the provisions of these rules, the provisions of the Trademarks (Provisions and Fees) Rules shall continue to apply.

*Substituted by:
L.N. 426 of 2007.*

Schedule of Fees

Receipt and forwarding of Community Trademark application pursuant to Article 25 of the Community Trademark Regulation

Rule 4

Where, pursuant to Article 25 of the Community Trademark Regulation, an application for a Community Trademark is filed at the Office in Malta responsible for registering trademarks, there shall be paid a fee of forty-six euro and fifty-nine cents (€46.59).
