

GOVERNMENT OF ZAMBIA

ACT

No. 17 of 1980

Date of Assent: 21st December, 1980

An Act to amend the Trade Marks Act

[*

ENACTED by the Parliament of Zambia.

Enactment

1. (1) This Act may be cited as the Trade Marks (Amendment) Act, 1980, and shall be read as one with the Trade Marks Act, hereinafter referred to as the principal Act.

Short title and commencement.
Cap. 693

(2) This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. Section *two* of the principal Act is amended in subsection (1) by the deletion of the definition of "Tribunal".

Amendment of section 2

3. Section *fourteen* of the principal Act is amended in subsection (3) by the deletion of "Tribunal" and the substitution thereof of "High Court".

Amendment of section 14

4. Section *fifteen* of the principal Act is amended in subsection (2) by the deletion of "Tribunal" and the substitution thereof of "High Court".

Amendment of section 15

5. Section *seventeen* of the principal Act is amended in subsections (2) and (3) by the deletion of the word "Tribunal" wherever it occurs and the substitution thereof of "High Court".

Amendment of section 17

6. Section *nineteen* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution thereof of "High Court".

Amendment of section 19

*This Act shall come into operation on such date as the Minister may, by statutory instrument, appoint.

- Amendment of section 20 7. Section *twenty* of the principal Act is amended in subsection (2) by the deletion in paragraph (b) of "Tribunal" and the substitution therefor of "High Court".
- Amendment of section 21 8. Section *twenty-one* of the principal Act is amended in subsection (1) by the deletion of "Tribunal" and the substitution therefor of "High Court".
- Amendment of section 22 9. Section *twenty-two* of the principal Act is amended—
(a) by the deletion of subsection (6) and the substitution therefor of the following subsection:
 (6) An appeal under this section shall be heard in accordance with the provisions of Part XI.;
(b) in subsections (7) and (8) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".
- Amendment of section 23 10. Section *twenty-three* of the principal Act is amended in subsections (7), (8), (9) and (10) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".
- Amendment of section 24 11. Section *twenty-four* of the principal Act is amended in subsection (1) by the deletion of "Tribunal" and the substitution therefor of "High Court".
- Amendment of section 25 12. Section *twenty-five* of the principal Act is amended in the proviso to subsection (5) by the deletion of "Tribunal" and the substitution therefor of "High Court".
- Amendment of section 31 13. Section *thirty-one* of the principal Act is amended in subsections (1) and (2) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".
- Amendment of section 32 14. Section *thirty-two* of the principal Act is amended in subsection (4) by the deletion of "Tribunal" and the substitution therefor of "High Court".
- Amendment of section 35 15. Section *thirty-five* of the principal Act is amended in subsection (1) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".
- Amendment of section 37 16. Section *thirty-seven* of the principal Act is amended in subsections (1), (2), (3) and (4) by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".
- Amendment of section 38 17. Section *thirty-eight* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".
- Amendment of section 41 18. Section *forty-one* of the principal Act is amended in subsection (3) by the deletion of "Tribunal" and the substitution therefor of "High Court".

19. Section *forty-two* of the principal Act is amended in subsection (2) by the deletion of "Tribunal" and the substitution therefor of "High Court". Amendment of section 42
20. The principal Act is amended by the repeal of section *forty-seven* and the substitution therefor of the following section: Repeal and replacement of section 47
47. In all proceedings before the Registrar under this Act, the Registrar shall have power to award to any party such costs as he may consider reasonable and to direct how and by what parties they are to be paid, and any costs so awarded shall be taxed by the High Court and payment thereof may be enforced in the same manner as if they were costs allowed by the High Court. Power of Registrar to award costs
21. The principal Act is amended by the repeal of section *fifty-one* and the substitution therefor of the following section: Repeal and replacement of section 51
51. Where this Act provides for an appeal from a decision of the Registrar, such appeal shall be made to the High Court. High Court to hear appeals
22. The principal Act is amended by the repeal of section *fifty-two*. Repeal of section 52
23. The principal Act is amended by the repeal of section *fifty-three* and the substitution therefor of the following section: Repeal and replacement of section 53
53. The Chief Justice may, by statutory instrument, make rules regulating the practice and procedure relating to appeals or references to the High Court or the Supreme Court, as the case may be, as to—
- (a) the time within which any requirement of the rules is to be complied with;
- (b) the costs and expenses of and incidental to any proceedings;
- (c) the fees to be charged in respect of such proceedings; and
- (d) the summary determination of any appeal which appears to the High Court or the Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay. Rules of court
24. The principal Act is amended by the repeal of section *fifty-four*. Repeal of section 54
25. Section *fifty-five* of the principal Act is amended by the deletion of "Tribunal" and "Tribunal or High Court" and the substitution therefor of "High Court" and "High Court or Supreme Court", respectively. Amendment of section 55

Repeal and
replacement
of section 58

26. The principal Act is amended by the repeal of section *fifty-six* and the substitution therefor of the following section:

References
to High
Court by
Registrar

56. When any matter to be decided by the Registrar under this Act appears to him to involve a point of law or to be of unusual importance or complexity, he may, after giving notice to the parties, refer such matter to the High Court for a decision and shall thereafter, in relation to such matter, act in accordance with the decision of the High Court or any decision substituted therefor on appeal to the Supreme Court.

Amendment
of section 58

27. Section *fifty-eight* of the principal Act is amended by the deletion of the words "High Court or Tribunal" wherever they occur and the substitution therefor of "Supreme Court or High Court".

Amendment
of section 60

28. Section *sixty* of the principal Act is amended by the deletion of "Tribunal" and the substitution therefor of "High Court".

Amendment
of section 61

29. Section *sixty-one* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court".

Repeal of
sections
62 and 63

30. The principal Act is amended by the repeal of sections *sixty-two* and *sixty-three*.

Repeal and
replacement
of section 64

31. The principal Act is amended by the repeal of section *sixty-four* and the substitution therefor of the following section:

Procedure
in cases of
option to
apply to
High Court
or Registrar

64. Where under any of the foregoing provisions of this Act an applicant has an option to make an application either to the High Court or to the Registrar and such application is made to the Registrar, the Registrar may, at any stage of the proceedings, refer the application to the High Court or may, after hearing the parties, determine the question between them, subject to appeal to the High Court.

Repeal and
replacement
of section 65

32. The principal Act is amended by the repeal of section *sixty-five* and the substitution therefor of the following section:

Security for
costs and
taxation of
costs

65. (1) When a party to proceedings before the Registrar is resident outside Zambia, the Registrar may order such party to give security, within such time as may be directed, for the costs of the proceedings.

(2) If the party ordered to give security for costs fails to do so within the time directed, the Registrar may treat the proceedings as abandoned.

(3) Where a bond is to be given as security for costs, it shall, unless the Registrar otherwise directs, be given to the party requiring the security.

-
33. Section *sixty-six* of the principal Act is amended by the deletion of the word "Tribunal" wherever it occurs and the substitution therefor of "High Court". Amendment of section 66
34. The principal Act is amended by the repeal of section *sixty-seven* and the substitution therefor of the following section: Repeal and replacement of section 67
67. Any party to any proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of the High Court to the Supreme Court. Appeals to Supreme Court
35. Section *seventy-one* of the principal Act is amended by the deletion of "or the Tribunal". Amendment of section 71
36. Section *seventy-six* of the principal Act is amended by the deletion of subsection (2) and the substitution therefor of the following subsection: Amendment of section 76
- (2) No authentication shall be required in respect of any document lodged in the Trade Marks Office under the provisions of this Act.
37. The principal Act is amended by the repeal of sections *eighty-three*, *eighty-four* and *eighty-five*. Repeal of sections 83, 84 and 85
38. Section *eighty-seven* of the principal Act is amended— Amendment of section 87
- (a) in subsection (2) by the deletion of "Tribunal" and the substitution therefor of "High Court";
- (b) by the deletion of subsection (3);
- (c) in subsection (4) by the deletion of "Tribunal" and the substitution therefor of "High Court".
39. Section *ninety* of the principal Act is amended in subsection (2) by the deletion of "or the Tribunal" and the substitution therefor of "the High Court or the Supreme Court". Amendment of section 90
40. The Schedule to the principal Act is amended in paragraph 1 by the deletion in sub-paragraph (5) of "Tribunal" and the substitution therefor of "High Court". Amendment of Schedule
-