

Government of Bangladesh

MINISTRY OF COMMERCE

Rawalpindi, the 10th September 1963

In exercise of the powers conferred by section 84 of the Trade Marks Act, 1940 (V of 1940), the Government of Bangladesh is pleased to publish the following Trade Marks Rules. They will come into effect immediately: -

REVISED TRADE MARKS RULES, 1963

PART - I

CHAPTER I – Preliminary

1. **Short title and commencement. –**

(1) These rules may be called the Revised Trade Marks Rules, 1963.

(2) They shall come into force at once.

2. **Definitions.-**

In these rules, unless there is anything repugnant in the subject or context, -

- a. "Act" means the Trade Marks Act, 1940;
- b. "Branch Registry" means a Branch of the Trade Marks Registry established under rule 139;
- c. "form" means a form set forth in either the Second or the Third Schedule to these rules;
- d. "Journal" means the Trade Marks Journal;
- e. "section" means a section of the Act;
- f. "specification" means the designation of goods in respect of which a trade mark, or a registered user of a trade mark, is registered or proposed to be registered.

3. **Fees. –**

(1) The fees to be paid in respect of applications and registration and other matters under the Act shall be those specified in the First Schedule to these rules, hereinafter referred to as the prescribed fees.

(2) (a) Fees may be paid in cash at the Trade Marks Registry, or may be sent by money order or postal order or cheque, payable to the Registrar.

- a. Cheques not carrying the correct addition for commission and other cheques on which the full value cannot be collected in cash within the time allowed or payment of the fee shall be accepted only at the discretion of the Registrar.
- b. Stamps shall not be received in payment of fees.

5. **Forms –**

The forms set forth in the second and the Third Schedules to these shall be used in all cases to which they are applicable and may be modified rejected by the Registrar to meet other cases.

6. **Size, etc. of documents. –**

(1) Subject to any other direction that given by the Registrar, all applications, notices, statements or other except trade marks authorised or required by the Act or these rules to be left with or sent to the Trade Mark Registry or left with or sent

to the Registrar or the Central Government shall be written, lithographed or in the English language in large and legible characters with deep permanent upon strong paper, and, except in the case of affidavits, on one side only, of approximately 13 inches by 8 inches, and shall have no the left hand part to a margin of not less than one inch a half.

(2) Duplicate documents including trade marks shall be filed at the trade mark Registry, if at any time required by the Registrar.

6. Signature of documents. -

(1) A document purporting to be signed by a partnership shall be signed by at least one of the partners and a document purporting to be signed by a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate. A document purporting to be signed by any other association of persons shall be signed by President, Chairman or Principal secretary of the Association or by any person who appears to the Registrar to be duly qualified. The capacity in an individual sign a document on behalf of a partnership or a body or other association of persons shall be stated below his signature.

(2) Signatures to any documents if written in characters other than Roman, or if not clearly legible shall be accompanied by a translation in English and in block capitals.

7. Service of documents. -

All applications, notices, statements, papers having representations affixed thereto, or other documents authorized or required by the Act or these rules to be made, left or sent, at or to the Trade Marks Registry or with or to Registrar or the Central Government or any person may be sent through the post by a prepaid letter; any application or any document so sent shall be deemed to have been made, left or sent at the time when the letter containing the same would be delivered in the ordinary course of post. In proving such sending, it shall be sufficient to prove that the letter was properly addressed and put into the post.

8. Particulars of applicant and other persons. -

(1) Names and addresses of applicant and persons shall be given in full, together with their nationality and such particulars, if any, of caste or calling as are necessary for identification. In the case of a firm, the full name and nationality of every partner thereof shall be stated.

(2) The address given shall in all cases be as full as possible, for the purpose of enabling any person easily to find the place of trade or business of the person whose address is given.

(3) In the case of a body corporate or firm or an association the country of incorporation and the nature of registration, if any, as the case may be, shall given.

9. Address for service. -

(1) Every applicant or opponent in any proceeding under the Act or these rules, who does not reside or carry on business within Bangladesh shall give an address for service in Bangladesh and such address may be treated as the actual address of that person for all purposes connected with the proceeding in question.

(2) Every person who is registered as a proprietor or registered user of a trade mark or who is about to be registered as such may, if he so desire, give upon Form TM-50 an address for service in Bangladesh for entry in the register, and such address in the register may be treated as the actual address of that person for purposes connected with the trade marks. All applications on form TM_50 rule shall be signed by the person about to be, or by an agent expressly him for the purpose of such application.

(3) In any case in which no address for service is entered in the register, the may treat the trade or business address of the registered proprietor registered user of a trade mark as therein entered as his address for service for purposes connected with the trade mark.

(4) By written communication addressed to a person as aforesaid at an address given by him or at an address treated by the Registrar as his address shall be deemed to be properly addressed.

(5) Unless an address for service as required in sub-rule (1) is given, the Registrar shall be under no obligation to send any notice that may be required by the Act or these rules, and no subsequent order or decision in the proceedings shall be called in question on the ground of any such non-service of notice.

10. Agency.-

The authorization of an agent for the purpose of section 80 executed on form TM-48;

CHAPTER II-Classification

11. Classification of goods.-

For the purposes of the registration of trade marks and of these rules, goods shall be classified in the manner specified in the Schedule to these rules.

APPLICATION FOR REGISTRATION

12. Form of application.-

An application to the Registrar for the registration of a trade mark shall be signed by the applicant. For trade mark other than a defensive trade mark, the application shall be made on form TM-1, if in respect of non-textile goods.

13. Application to be confined to one class. -

(1) Every application for the registration of a trade mark shall be in respect of goods in one class only of the Fourth Schedule to these rules.

(2) Separate applications.- Applications for the registration of the same trade mark in different class shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number of goods in more than one class, whether on conversion of the specification under rule 75 or otherwise, the registration in respect of the goods included in each separate class shall be deemed to be a separate registration for all the purposes of the Act.

14. Statement of user in applications.-

An application to register a trademark shall contain a statement of the period during which, and the person by whom, it has been used in respect of the goods mentioned in the application. The Registrar may require the applicant to file an affidavit testifying to such user with exhibits showing the mark as used.

15. Representation of marks.-

Every application for the registration of a trade mark, and where additional copies of the application are required, every such copy shall contain a representation of the mark in the space provided on the application form for that purpose. Where the representation exceeds such space in size, the representation shall be mounted upon linen, tracing cloth or such other material as the Registrar may consider suitable. Part of the mounting shall be affixed in the space aforesaid and the rest may be folded.

16. Additional representation.-

Every application for the registration of a trade mark shall, except as hereinafter provided, be made in duplicate and shall be accompanied by six additional representations of the mark. The representations of the mark on the application and its duplicate and the additional representations shall correspond exactly with one another. The additional representations

shall in all cases be 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.

17. Representations to be durable.-

All representations of trade marks must be of a durable nature and each additional representation required to be filed with an application for registration shall be mounted on a sheet of strong paper of the size of approximately 13 inches by 8 inches, leaving a margin of not less than one inch and a half on the left hand part of the sheet.

18. Specimens of the mark in exceptional cases.-

Where a representation of a trade mark cannot be given in the manner set forth in rule 17, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale, and in such form as the Registrar may think most convenient.

19. Series of trade marks.-

Where application is made for the registration of a series of trade marks under sub-section (3) of section 11 copies of representations of each trade mark of the series shall accompany the application in the manner set forth in rules 15 and 16.

20. Transliteration.-

Where a trade mark contains a word or words in characters other than Roman, there shall, unless the Registrar otherwise directs, be endorsed on the application form, and on each of the accompanying representations, a sufficient transliteration of the Registrar of each of such words, and every such endorsement shall state the language to which the word belongs and shall be signed by the applicant.

21. Translation.-

Where a trade mark contains a word or words in a language other than English, the Registrar may ask for an exact translation thereof together with the name of the language, and such translation and name, if he so requires, shall be enclosed and signed as aforesaid.

PROCEDURE ON RECEIPT OF APPLICATION FOR REGISTRATION OF A
TRADE MARK

22. Acknowledgement of receipt of application.-

Every application for the registration of a trade mark in respect of any goods shall, on receipt, be acknowledged by the Registrar.

23. Search.-

Upon receipt of an application for the registration of a trade mark in respect of any goods the Registrar shall cause search to be made amongst the registered marks and amongst the pending applications for the purpose of ascertaining whether there are on record in respect of the same goods or description of goods any marks identical with the mark sought to be registered or so nearly resembling it as to render it likely to deceive or cause confusion and the Registrar may cause the search to be renewed at any time before the acceptance of the application, but shall not be bound to do so.

24. Objection to acceptance-Hearing. -

(1) If, on consideration of the application, and of any evidence of use or of distinctiveness or of any other matter which the applicant may or may be required to furnish the Registrar has any objection to the acceptance of the application or process to accept it subject to such conditions, amendments, disclaimers, modifications or limitations as he may think right to impose, the Registrar shall communicate such objection or proposal in writing to the applicant.

(2) Unless within three months from the date of the communication mentioned in sub-rule (1), the applicant alters his application according to the proposal aforesaid, or send his observations to the Trade Marks Registry or applies for a hearing, the application shall be deemed to have been abandoned and no further reference to the applicant shall be necessary.

(3) An application which is treated as abandoned under sub-rule (2) or sub-section (3) of section 16 may be restored to the file on sufficient cause being shown to the satisfaction of the Registrar and in application to that effect being made in form TM-56 accompanied by a statement of the case.

25. .Decision Registrar. -

(1) The decision of the Registrar at a hearing under rule 24, or without a hearing if the applicant has duly communicated his observations in writing, and has stated that he does not desire to be heard, shall be communicated to the applicant in writing, and if the applicant intends to appeal from such decision he may within one month from the date of such communication apply on form TM-15 to the Registrar requiring him to state in writing the grounds of, and the materials used by him in arriving at, his decision.

(2) In a case where the Registrar makes any requirements to which the applicant does not object, the applicant shall comply therewith before the Registrar issues a statement in writing under sub-rule (1).

(3) The date when such statement is spent shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

DEFENSIVE TRADE MARKS

26. Application for registration and proceedings relating thereof.-

An application for the registration of a defensive trade mark under section 38 shall be made on form TM-3 and shall be accompanied by a statement of case setting forth full particulars of the facts on which the applicant relies in support of his application, verified by an affidavit made by the applicant. The applicant may send with this affidavit or subsequently such other evidence as he may desire to furnish, and the Registrar shall consider the whole of the evidence before deciding the application. In all other respect and where they are appropriate and it is not otherwise stated, these rules shall apply to applications for the registration of ordinary trade marks.

ADVERTISEMENT OF APPLICATION

27. Manner of advertisement.-

An application for the registration of the trade mark required or permitted to be advertised by sub-section (1) of section 15 shall be advertised in the Journal during such time and in such manner as the Registrar may direct. In the case of an application with which the Registrar proceeds only after the applicant has lodged the written consent to the proposed registration of the registered proprietor of another trade mark or of another applicant the word "By Consent" shall appear in the advertisement. If no representation of the trade mark be included in the advertisement of the application, the Registrar shall mention in such advertisement the place or places where a specimen or representation of the trade mark may be inspected.

28. Wood block or Electro-type.-

For the purposes of advertisement in the Journal, the applicant may, at the appropriate time, supply or be required to supply a printing block (or more than one, if necessary) of trade mark satisfactory to the Registrar, of such dimensions as may from time to time be approved or directed by the Registrar, or shall supply such information or other means of advertising the trade mark as a may be required by the Registrar, and the Registrar, if dissatisfied with the printing block supplied by the applicant or his agent, may required a fresh block before proceeding with the advertisement. Any printing block so sent to the Registrar shall be required by the Trade Marks Registry.

29. Advertisement of series.-

Where an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in sub-section (3) of section 11, the applicant may be required to supply a printing block (or more than one, if necessary) satisfactory to the Registrar of any or of each of the trade marks constituting the series, or the Registrar may, if he thinks fit, insert with the advertisement of the application a statement of the manner in which the several trade marks differ from one another.

OPPOSITION OF REGISTRATION

30. **Notice of opposition.-**

The time within which a notice of opposition to the registration of a trade mark may be given, shall be four months from the date of advertisement of the application for registration, in the Journal. Such notice shall be on form TM-5.

31. **Particulars to be given in the notice.-**

The notice shall be given in duplicate, and shall include a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the trade mark in question resembles any marks already on the register, the registration numbers of such trade marks and the dates of the Journals in which they have been advertised shall be set out.

32. **Counter-statement.-**

The counter-statement required by sub-section (3) of section 15 shall be sent in duplicate on form TM-6 within two months from the receipt by the applicant of the duplicate notice of opposition. The applicant shall also set out in the counter-statement what facts, if any, alleged in the notice of opposition, are admitted by him.

33. **Evidence in support of opposition. -**

(1) Within two months from the receipt by the opponent of the duplicate counter-statement the opponent shall either leave with the Registrar such evidence by way of affidavit as he may desire to adduce in support of his opposition or shall intimate to the Registrar in writing that he does not desire to adduce any evidence in support of his opposition. He shall deliver to the applicant copies of any evidence that he leaves with the Registrar under this sub-rule.

(1).If an opponent takes no action under sub-rule within the time therein prescribed, he shall, unless the Registrar otherwise directs, be deemed to have abandoned his opposition.

34. **Evidence in support of application.-**

Within two months from the receipt by the applicant of the copies of affidavits in support of the opposition, the applicant shall leave with the Registrar such evidence by way of affidavit as he desires to adduce in support of his application and shall deliver to the opponent copies thereof.

35. **Evidence in reply by opponent.-**

within one month from the receipt by the opponent of the copies of the applicant's affidavits, the opponent may leave with the Registrar evidence by affidavit in reply and shall deliver to the applicant copies thereof. This evidence shall be confined to matters strictly in reply.

36. **Further evidence.-**

No further evidence shall be left on either side, but, in any proceedings before the Registrar, he may at any time, if he thinks fit, give leave to either the applicant or the opponent to leave any evidence upon such terms as to costs or otherwise as he may think fit.

37. **Exhibits.-**

Where there are exhibits to affidavits filed in an opposition, copies or impressions of such exhibits shall be sent to the other party on his request and at his expense, or, if such copies or impressions cannot conveniently be furnished, the original shall be left with the Registrar in order that they may be open to inspection. The original exhibits shall be produced at the hearing unless the Registrar otherwise directs.

38. **Hearing.-**

Upon completion of the evidence the Registrar shall give notice to the parties of a date he will hear the arguments in the case. Such appointment shall be for a date at least one month after the date of the notice, unless the parties consent to a shorter notice. Within fourteen days from the receipt of the notice any party who intends to appear shall so notify the Registrar on form TM-7. Any party who does not desire to be heard and the Registrar may act accordingly.

39. **Security for costs.-**

The security for costs which the Registrar may require under sub-section (5) of section 15, may be fixed at any amount

which he may consider proper, and such amount may be further enhanced by him at any stage in the opposition proceedings.

NOTICE OF NON-COMPLETION OF REGISTRATION

40. Procedure for giving notice.-

The notice which the Registrar is required by sub-section (3) of section 16, to give to an applicant, shall be sent to applicant at his trade or business address or address for service on form O-1, but if the applicant has authorised an agent for the purpose of the application, the notice shall be sent to the agent and a duplicate thereof to the applicant. The notice shall specify twenty-one days time from the date thereof or such further time as the Registrar may allow, for completion of the registration.

REGISTRATION

41. Entry in Register. -

(1) As soon as may be after the expiration of fourth months from the date of the advertisement in the Journal of any application for the registration of a trade mark, Registrar shall, subject to any opposition and the determination thereof, and to the provisions of sub-section (1) of section 16 and upon payment of the prescribed fees on Form TM-11, enter the trade mark in the register.

(2) The entry of a trade mark in the register shall specify the date of the registration, the goods in respect of which it is registered, and all particulars required by sub-section (1) of section 4, including both the trade or business address and the address for service of the applicant (if an application on form TM-50 for the entry thereof has been accepted), particulars of the trade, business profession, occupation, or other description of the proprietor, particulars of any undertaking by the proprietor entered in the form of the proprietor, particulars affecting the scope of the registration or the rights conferred by the registration, and such other particulars as are prescribed.

(3) In the case of an application as aforesaid which the Registrar accepts only after the applicant has lodged the written consent to the proposed registration, of the registered proprietor of another trade mark or another applicant for registration, the entry made under this rule in the register shall state that it is "By Consent" and shall give the number of the previous registration or application for registration.

42. Associated marks.-

Where a trade mark is registered as associated with any other marks, the Registrar shall note in the register in connection with the first-mentioned mark the registration numbers of the marks with which it is associated and shall also note in the register in connection with each of the associated marks the registration number of the first-mentioned mark as being a mark associated therewith.

43. Death of applicant before registration.-

In case of death of any applicant for the registration of a trade mark after the date of his application and before the trade mark has been entered in the register, the Registrar may, on proof of the applicant's death and of the title of another person to the ownership of the trade mark, enter in the register the name, address and description of that person as the proprietor of the trade mark.

44. Certificate of registration.-

The certificate of registration of a trade mark to be issued by the Registrar under sub-section (2) of section 16 shall be in form O-2 with such modifications as the circumstances of any case may require, and the Registrar shall annex a copy of the trade mark to the certificate.

CHAPTER III

DISSOLUTION OF ASSOCIATED MARKS

45. **Application for dissolution.-**

An application under sub-section (4) of section 12 shall be made on form TM-14 and shall include a statement of the grounds of the application.

RENEWAL OF REGISTRATION AND RESTORATION

46. **Renewal of registration.-**

An application for a renewal of the registration of a trade mark shall be made on form TM-12 and may be made at any time not more than six months before the expiration of the last registration of the trade mark.

47. **Notice before removal of trade mark from register.-**

At a date not less than one month and not more than two months before the expiration of the last registration of a trade mark, if no application on Form TM-12 for renewal of the registration together with the prescribed fee has been received, the Registrar shall notify the registered proprietor in writing on Form O-3 of the approaching expiration at his trade or business address as well as address for service entered in the register.

48. **Advertisement of non-payment.-**

If at the expiration of the last registration of a trademark the renewal fee has not been paid, the Registrar shall advertise the fact forthwith in the Journal and if within four months of that advertisement the renewal fee on form TM-12 together with prescribed additional fee is received, he shall renew the registration without removing the mark from the register.

49. **Removal of trade mark from register and restoration. -**

(1) Where, at the expiration of four months from the advertisement mentioned in the last foregoing rule, the fees therein referred to have not been paid, the Registrar may remove a mark from the register, and the removal shall take effect from the expiration of the last registration.

(2) The mark has been removed from the register, the Registrar may, on receipt of a request made in that behalf on form TM—13, restore the mark to the register on being satisfied that it is just so to do, and upon such conditions as he may think fit to impose.

50. **Notice and advertisement of renewal and restoration.-**

Upon the renewal or restoration and renewal of a registration, a notice to that effect shall be sent to the registered proprietor and the renewal or restoration and renewal shall be advertised in the Journal.

ASSIGNMENT AND TRANSMISSION

51. **Application for entry of assignment or transmission.-**

An application to register the title of a person who becomes entitled by assignment or transmission to a registered trade mark shall be made on form TM-24 or TM-23 according as it is made by such person alone or conjointly with the registered proprietor.

52. **Particulars to be stated in application.-**

An application under rule 51 shall contain full particulars of the instrument, if any, under which the applicant or in the case of a joint application, the person other than the registered proprietor claims to be entitled to the trade mark; and such instrument or a duly certified copy thereof shall be produced at the Trade Marks Registry, for inspection at the time of application, The Registrar may require and retain an attested copy of any instrument produced for inspection in proof of title, but such copy shall not be open to public inspection.

53. **Case accompanying application.-**

Where a person applying under rule 51 for registration of his title does not establish his claim under any document or instrument which is capable in itself of furnishing proof of his title, he shall, unless the Registrar otherwise directs, either upon or with the application, state a case setting forth the full particulars of the facts upon which his claim to be proprietor

of the trade mark is based, and showing that the trade mark has been assigned or transmitted to him. If the registrar so requires, the case shall be verified by an affidavit on form TM-18.

54. Proof of title.-

The Registrar may call upon any person who applies to be registered as proprietor of a registered trade mark to furnish such proof or additional proof of title as he may require for his satisfaction.

55. Advertisement of assignment without goodwill of trade mark in use.

(1) An application for directions under section 33 shall be made on form TM-20 and shall state the date on which the assignment was made. The application shall give particulars of the registration in the case of a registered trade mark, and in the case of an unregistered mark, shall show the mark and give particulars of the registered trade mark that has been assigned therewith in accordance with section 30. The Registrar may call for any evidence or further information and if he is satisfied with regard to the various matters he shall issue directions in writing with respect to the advertisement of the assignment.

(2) The Registrar may refuse to consider such an application in a case to which section 32 applies, unless his approval has been obtained under the said section and a reference identifying the Registrar's notification of approval is included in the application.

(3) A request for an extension of the period within which the application may be made shall be on form TM-21 and may be made at any time before or during the period for which extension can be allowed. The extension of the period which the Registrar may allow shall not exceed three months.

56. Application for entry of assignment without Goodwill.-

An application under rule 51 relating to an assignment of a trade mark in respect of any goods shall state-

(a) whether the trade mark was, at the time of the assignment, used in a business in any of those goods; and

(b) whether the assignment was made otherwise than in connection with the goodwill of that business, and if both those circumstances subsisted, then the applicant shall leave at the Trade Marks Registry a copy of the directions to advertise the assignment, obtained upon application under rule 55, and such proof, including copies of advertisements or otherwise, as the Registrar may require, to show that his directions have been fulfilled, he shall not proceed with the application.

57. Separate registrations.-

Where pursuant to an application under rule 51 and as the result of a division and separation of the goods of a registration or a division and separation of places or markets, different persons become registered separately under the same registration number as subsequent proprietors of trade mark, each of the resulting separate registrations in the names of those different persons shall be deemed to be separate registration for all the purposes of the Act.

58. Registrar's certified or approval as to certain assignments and transmissions.-

Any person who desires to obtain the Registrar's certificate under sub-section (2) of section 31 or his notification of approval under section 32 shall send to the Registrar with his application on form TM-17 or form TM-19, as the case may be, a statement of case in duplicate setting out the circumstances and a copy of any instrument or proposed instrument effecting the assignment or transmission. The Registrar may call for any evidence or further information that he may consider necessary and the statement of case shall be amended if required to include all the relevant circumstances and shall, if required, be verified by an affidavit. The Registrar, after hearing (if so required) the applicant and any other person whom the registrar may consider to be interested in the transfer, shall consider the matter and issue a certificate thereon or a notification in writing of approval or disapproval thereof, as the case may be. Where a statement of case is amended, two copies thereof in its final form shall be left at the Trade Marks Registry. The Registrar shall seal a copy of the statement of case in its final form to the certificate or notification.

59. Registration of Assignment to a company under section 36. -

For the purposes of sub-section (3) of section 36, the period within which a company may be registered as the subsequent proprietor of a registered trade mark, upon application made under rule 51 shall be six months from the date of advertisement in the Journal of the Registration of the trade mark or such further period not exceeding six months as the Registrar may allow, on application being made on form TM-25 by the applicant for registration of title or the registered proprietor, as the case may be, at any time before or during the period for which the extension can be allowed.

REGISTERED USERS

60. **Entry and notification. -**

(1) An application to the Registrar for the registration under section 41 of an person as a registered user of a registered trade mark shall be made by that person and the registered proprietor on form TM-28.

(2) The entry of a registered user in the register shall set forth, in addition to the particular mentioned in sub-section (1) of section 41, his address for service, if an application by him on form TM-50 therefor has been accepted, and the date on which the entry is made. A notification in writing of the registration of a registered user shall be sent to the registered proprietor of the trade mark, to the registered user and to every other registered user whose name is entered in relation to the same registration of a trade mark and shall be inserted in the Journal.

61. **Registered proprietor's application to vary entry.-**

An application by the registered proprietor of a trade mark for the variation of the registration of a registered user of that trade mark under clause (a) of section 42 shall be made on form TM-29 and shall be accompanied by a statement of the grounds on which it is made and, where the registered user in question consents, by the written consent of that registered user.

62. **Cancellation of the registration of registered user. -**

(1) An application for the cancellation of the registration of a registered user under clause (b) or clause (c) of section 42 shall be made on form TM-30 or form TM-31, as the case may be, and shall be accompanied by a statement of the grounds on which it is made.

(2) In case of the registration of a registered user for a period, in accordance with clause (d) of sub-section (1) of section 41, the Registrar shall cancel the entry of the registered user at the end of that period. Where some or all of the goods are omitted from those in respect of which a trade mark is registered, the Registrar shall at the same time omit them from those specifications of registered users of the trade mark in which they are comprised. The Registrar shall notify every cancellation or omission under this sub-rule to the registered users whose permitted use is effected thereby and to the registered proprietor of the trade mark.

63. **Notification and hearing.-**

The Registrar shall notify in writing applications under section 42 to the registered proprietor and each registered user (not being the applicant) under the registration of the trade mark. Any person so notified who intends to intervene in the proceeding, shall within one month of the receipt of such notification give notice to the Registrar on form TM-32 to that effect and shall send therewith a statement of the grounds of his intervention. The Registrar shall thereupon serve or cause to be served copies of such notice and statement on the other parties viz., the applicant, the registered proprietor, the registered user whose registration is in suit, and any other registered user who intervenes. Any such party may, within such time or times as the Registrar after giving the party an opportunity of being heard may accept or refuse the application or accept it subject to any conditions, amendments, modifications or limitations he may think right to impose.

64. **Registered user's application under section 47 (2).-**

Applications under sub-section (2) of section 47 shall be made on form TM-16 or form TM-33 or form TM-34 as may be appropriate by a registered user of a trade mark or by such person as may notify the Registrar that he is entitled to act in the name of a registered user and the Registrar may require such evidence by affidavit or otherwise as he may think fit as to the circumstances in which the application is made.

APPLICATION FOR ALTERATION OR RECTIFICATION OR REGISTER

65. **Application to rectify, or remove a trade mark from the register.-**

An application to Registrar under section 37, 38 or 48 for the making, expunging or varying of any entry in the register shall be made on form TM-26 and shall be accompanied by a statement setting out fully the nature of the applicant's interest, the facts upon which he bases his case and the relief which he seeks. Where the application is made by a person who is not the registered proprietor of the trade mark in question, the application and the statement aforesaid shall be left at the Trade Mark Registry in duplicate. The duplicate copies shall be transmitted forthwith by the Registrar to the registered proprietor.

66. **Further procedure.-**

Upon an application mentioned in rule 65 being made and copies thereof being transmitted to the registered proprietor, if necessary, the provisions of rules 32 to 39 shall apply mutatis mutandis to the further proceeding on the application but the Registrar shall not rectify the register or remove the mark from the register merely because the registered proprietor has not filed a counter-statement. In any case of doubt any party may apply to the Registrar for directions.

67. Intervention by third parties.-

Any person, other than the registered proprietor, alleging interest in a registered trade mark in respect of which an application is made under rule 65 may apply on form TM – 27 for leave to intervene, stating the nature of his interest, and the Registrar may refuse or grant such leave after hearing (if so required) the parties concerned, upon such conditions and terms as he may deem fit.

ALTERATION OF ADDRESS

68. Alteration of address in register. –

(1) A registered proprietor or a registered user of a trade mark whose trade or business address is changed, so that the entry in the register is rendered incorrect shall forthwith request the Registrar on form TM-34 to make the appropriate alteration of the address in the register and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(2) A registered proprietor or a registered user of a trade mark whose address for service in Bangladesh entered in the Register is changed, whether by discontinuance of the entered address or otherwise, so that the entry in the register is rendered incorrect, shall forthwith request the Registrar on form TM – 50 to make the appropriate alteration of the address in the Register, and the Registrar shall alter the register accordingly if he is satisfied in the matter.

(3) A registered proprietor or a registered user of a trade mark whose registered trade or business address or address for service is altered by a public authority, so that the changed address designates the same premises as before may make the aforesaid request to the Registrar on form TM – 34 or TM – 50, as the case may be, and if he does so he shall leave therewith a certificate of the alteration given by the said authority. If the Registrar is satisfied as to the facts of the case, he shall alter the register accordingly, but shall not require any fees to be paid on the forms.

(4) In case of the alteration of the address of a person entered in the register as the address for service of more than one registered proprietor or registered user of trade marks, the Registrar may, on proof that the said address is the address of the applicant and if satisfied that it is just to do so, accept an application from that person on a form TM – 50, amended so as to suit the case, for the appropriate alteration of the entries of his address as the address for service in the several registrations, particulars of which shall be given in the form, and may alter the entries accordingly.

(5) All applications under this rule on form TM – 50 shall be signed by the registered proprietor or the registered user, as the case may be, or by an agent expressly authorised by him for the purpose of such an application, unless in exceptional circumstances the Registrar otherwise allows.

CORRECTION OF REGISTER

69. Application under section 47. -

1. Where an application has been made under sub-section (1) of section 47 for the alteration of the register by correction change, cancellation or striking out goods, or for the entry of a disclaimer or memorandum, the Registrar may require the applicant to furnish such evidence by affidavit or otherwise as the Registrar may think fit, as to the circumstances in which

the application is made. Such application shall be made on form TM – 16, TM – 34, TM – 35, TM – 36, TM – 37 or TM – 50 as may be appropriate.

70. Advertisement of certain applications. -

1. Where an application has been made under clause (c), (d) or (e) of sub-section (1) or section 47, on form TM – 35, TM – 36 or TM – 37, respectively, the Registrar shall serve or cause to be served a copy of the application on any person who appears from the register to have any interest in the trade mark.
2. Where application is made under clause (e) of the said sub-section on form TM – 37 to enter a disclaimer or memorandum relating to a trade mark, the Registrar shall before deciding upon such application, advertise the application in the Journal in order to enable any person to lodge at the Trade Marks Registry a statement in writing, showing the reasons for his objections to the proposed entry, within four months from the date of the advertisement.

ALTERATION OF REGISTERED TRADE MARKS

71. Alteration of registered trade marks. –

Where a person applies under section 48 for leave to add to or alter his registered trade mark, he shall make his application in writing on form TM – 38 and shall furnish six copies of the mark as it will appear when so added to or altered.

72. Advertisement before decision and opposition. –

1. The Registrar shall consider the application and shall, if it appears to him expedient, advertise the application in the Journal before deciding it.

2. Within four months from the date of advertisement under sub-rule (10), any person may give notice of opposition to the application on form TM – 39 and may also send therewith a further statement of his objections. The notice and the statement, if any, shall be sent in duplicate. The provisions or rules 32 to 39 shall apply mutatis mutandis to the further proceedings on such notice.

73. Advertisement, Illustration. –

If in the opinion of the Registrar an advertisement describing in words the proposed addition or alteration, would not be likely to convey to the mind an exact representation of the mark so altered or added to, he may require the applicant to supply a printing block suitable for advertising the mark with the addition or alteration as aforesaid. The advertisements under sub-section (2) of section 48 shall mutatis mutandis be made in the same manner as advertisements relating to an application for registration of a trade mark.

74. Decision, Advertisement, Notification. –

If the Registrar decides to allow the application he shall alter the mark in the register in the manner applied for and insert in the Journal a notification that the mark has been altered. If the application has not been advertised under rule 72 he shall also advertise in the Journal the trade mark as altered.

RE-CLASSIFICATION OF GOODS IN RESPECT OF EXISTING REGISTRATION

75. Re-classification in respect to existing registration. –

1. On the classification set forth in the Fourth Schedule to these Rules being amended, the registered proprietor of a trade mark may apply to the Registrar on form TM – 40 for the conversion of the specification relating to his trade mark, so as to

bring that specification into conformity with the amended classification. The application shall include a request for the like conversion of the specification in respect of any registered users under that registration.

2. The Registrar shall, thereon notify in writing to the registered proprietor a proposal showing the form which, in the Registrar's view, the amendment of the register should take in consequence of the proposed conversion. Two or more registrations of a trade mark having the same date and in respect of goods which fall within the same class under the amended or substituted classification, may be amalgamated upon conversion in accordance with this rule.
3. The proposal referred to in sub-rule (2) shall be advertised in the Journal.
4. Notice of opposition to such proposal shall be given on form TM – 41 in duplicate within one month from the date of the advertisement and shall be accompanied by a statement in duplicate showing how the proposed amendment would contravene the provisions of sub-section (1) of section 49.
5. The procedure for the disposal of an opposition under this rule shall be regulated by the provisions of rules 32 to 39 *mutatis mutandis*.
6. If there is no opposition within the time specified in sub-rule (4), or in case of opposition, if the conversion of the specification is allowed, the proposal as allowed shall be advertised in the Journal, and all necessary entries shall be made in the register. The date when such entries are made in the register shall be recorded therein. Any entry made in the register in pursuance of this sub-rule shall not affect the date of renewal of registration under section 18, which shall be determined in the same manner as before the allowance of the conversion.

MISCELLANEOUS POWERS OF THE REGISTRAR

76. **Extension of time.** –

If in any particular case the Registrar is satisfied that the circumstances are such as to justify an extension of the time for doing any Act or taking any proceeding under these rules, not being a time expressly provided in the Act or prescribed by rule 55 or 59, he may extend the time upon such notice to other parties, if any, and upon such terms as he may direct, and the extension may be granted though the time for doing the Act or taking the proceeding has already expired. An application for extension of time shall be made in form TM – 55, on payment of the prescribed fee.

77. **Exercise of discretionary power of Registrar.** –

The time within which a person entitled under clause (c) of section 70 to an opportunity of being heard shall exercise his option of requiring to be heard shall, save as otherwise expressly provided in the Act or these rules, be one month from the date of a notice which the Registrar shall give to such person before determining the matter with reference to which such person is entitled to be heard. If within that month such person requires to be heard, the Registrar shall appoint a date for the hearing and shall give 10 days' notice thereof.

78. **Notification of decision.** –

The decision of the Registrar in the exercise of any discretionary power given to him by the Act or these rules shall be notified to the person affected.

79. **Correction of irregularity in Procedure.** –

Any irregularity in procedure which, in the opinion of the Registrar, may be obviated without detriment to the interests of any person, may be corrected, if the Registrar thinks fit and on such terms as he may direct.

AWARD OF COSTS BY REGISTRAR

80. **Costs in uncontested cases.** –

1. Where any opposition duly instituted under these rules, is not contested by the applicant, the Registrar in deciding whether costs should be awarded to the opponent shall consider whether the proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was lodged.
2. Sub-rule (1) shall not apply to costs in respect of fees specified under entries 11, 12 and 13 of the First Schedule to these rules, which shall follow the event.

81. Scale of costs. –

In all proceedings before the Registrar the Registrar may, save as otherwise expressly provided by the Act, award such costs as he considers reasonable, having regard to all the circumstances of the case, provided that the amount of costs awarded in respect of any of the matters set forth in the Sixth Schedule to these rules shall not exceed the amount therein specified.

CERTIFICATES

82. Certificates other than under section 16 (2). –

The Registrar may give a certificate [other than a certificate under sub-section (2) of section (16)] as to any entry, matter or thing which he is authorised or required by the Act or these rules to make or do, upon receipt of a request therefor on form TM – 46 from any person who can show, if so required by the Registrar, an interest in the entry, matter or thing to the satisfaction of the Registrar. Where a copy of any trade mark has to be included in a certificate, the Registrar may require the applicant to supply a copy thereof suitable for the purpose, and if the applicant fails to do so, the Registrar shall not be obliged to include a copy of the mark in the certificate.

83. Certificate for use in obtaining registration abroad. –

1. Where a certificate relating to the registration of a trade mark is desired for use in obtaining registration in any territory outside Bangladesh, the Registrar shall include in the certificate a copy of the mark and may require the applicant for the certificate to furnish him with a copy of the mark suitable for the purpose, and if the applicant fails to do so, the Registrar may refuse to issue the certificate.
2. Where a trade mark is registered without limitation of colour, the copy of the mark to be included in the certificate, may be either in the colour in which it appears upon the register or in any other colour or colours.
3. The Registrar may state in the certificate such particulars concerning the registration of the mark as to him may seem fit, and may omit therefrom references to any disclaimers appearing in the register. The purpose for which the certificate is issued shall be stated therein.

APPEALS TO HIGH COURT

84. Time for appeal. –

An appeal to a High Court from any decision of the Registrar under the Act or these rules, shall be made within four months from the date of such decision, or within such further time as the Registrar may allow, provided that in calculating the said period of four months the time, if any, occupied in granting a copy in writing of the decision appealed against, shall be excluded.

CERTIFICATE OF VALIDITY

85. Certificates of validity to be noted. –

Where the court has certified as provided in section 78 with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar on form TM – 47 to add to the entry in the register a note that the certificate of validity has been granted in the course of the proceedings, particulars of which shall be given in the request. An officially certified copy of the certificates shall be sent with the request, and the Registrar shall record a note to that effect in the register and publish the note in the Journal.

INSPECTION OF DOCUMENTS BY THE PUBLIC

86. Inspection of register, etc. –

The register and the Refused Textile Marks List, shall be open to inspection, on payment of the prescribed fee, at such time from all the days on which the Trade Marks Registry is not closed to the public, as may be fixed by the Registrar.

87. Request to Registrar for search. –

Any person may in form TM – 54 request the Registrar to cause a search to be made in respect of specified goods classified in any one class of the Fourth Schedule to these rules to ascertain whether any mark in the register or among pending applications for registration or in the Refused Textile Marks List resembles a trade mark of which duplicate representations accompany the form. The Registrar shall cause such search to be made and the person making the request to be informed of the result thereof.

88. Distribution of copies of Journal and other documents. –

The Central Government may direct the Registrar to distribute the Journal and any other document which it may consider necessary, to such places as may be fixed by the Central Government in consultation with the Provincial Governments and notified from time to time in the *official Gazette*.

APPLICATIONS TO HIGH COURT

89. Applications made to the Court to be served on the Registrar. –

Every application to a High Court under the Act shall be served on the Registrar.

PART – II

SPECIAL PROVISIONS FOR CERTIFICATION TRADE MARKS

90. Rules of apply to Certification Trade Marks. –

Subject to the provisions of this Part, the provisions of Part – I and Part – V of these rules shall apply to certification trade marks as they apply to trade marks.

91. Application for registration and proceedings relating thereto. –

1. An application for the registration of a certification trade mark under sub-section (1) of section 53 shall be made to the Registrar on form TM – 4 and shall be accompanied by three duplications of the application and by six additional representations of the mark. The draft regulations to be forwarded with the application under the said sub-section (1) of section 53 shall be in triplicate and shall be accompanied by form TM – 49.
2. Reference in Part I of these rules to the acceptance of an application for the registration of a trade mark, shall, in their application to a certification trade mark, be substituted by references to authorisation to proceed with the application.
3. An applicant for the registration of a certification trade mark shall not be deemed to have abandoned his application, if, in the circumstances of rule 24, he does not apply for a hearing or reply in writing.
4. The address of an applicant to register a certification trade mark shall be deemed to be a trade or business address for all the purposes for which such an address is required by these rules.

92. Case accompanying application. –

The applicant shall send to the Registrar with his application a case setting out the grounds on which he relies in support of his application. Such case shall be furnished in duplicate.

93. Opposition to registration of certification trade marks. –

1. The references to forms TM – 5, TM – 6 and TM – 7 in rules 30 to 39 shall in their application to proceedings on the opposition to the registration of certification trade marks under sub-section (2) of section 55, be substituted by reference to form TM – 8, TM – 9 and TM – 10, respectively.
2. In any case of doubt with regard to the application of the provisions of rules 30 to 39 to proceedings on the opposition to the registration of a certification trade mark any party may apply to the Registrar or the Central Government, as the case may be, for directions.

94. Rectification of certification trade mark entries. –

An application on any of the grounds mentioned in sub-section (1) of section 59 shall be made on form TM – 43 and shall set forth full particulars of the grounds on which the application is made.

95. Alteration of regulations relating to certification trade marks. –

An application by the registered proprietor of a certification trade mark under sub-section (2) of section 56 shall be made on form TM – 42 and where the Central Government decides to advertise such application under sub-section (3) of section 56, the advertisement shall be made in the Journal.

96. Consent of Central Government to assignment or transmission of certification trade mark. –

An application for the consent of the Central Government under sub-section (1) of section 34 shall be made on form TM – 22.

PART – III

SPECIAL PROVISIONS FOR TEXTILE MARKS

97. Rules to apply to textile marks. –

Subject to the provisions of this Part, the provisions of Part – I, Part – II and Part – V of these Rules shall apply to textile marks and certification trade marks in respect of non-textile goods.

98. Textile Marks. –

The expression "textile mark" means a trade mark or a certification trade mark used or proposed to be used in relation to goods specified in rule 99 as "textile goods" for the purpose of Chapter IX of the Act.

99. Textile goods. –

The classes of goods to which Chapter IX of the Act shall apply and which are in the Act and these rules referred to as textile goods shall be classes 22 to 27 (inclusive) of the Fourth Schedule to these rules.

100. Application to register word mark. –

An application for the registration of trade mark consisting exclusively of a word or words (not being an invented word or invented words) relating to textile goods shall be made on form TM – 51.

101. Application to register letters or numerals. –

Subject to the provisions or rule 102 an application for the registration of a trade mark consisting of letters or numerals or any combination thereof relating to textile goods shall be made on form TM – 52.

102. Items of textile goods. –

A separate application for the registration of a trade mark shall be made in respect of each of the items of textile goods mentioned in the Fifth Schedule to these rules where the mark consists exclusively of letters or numerals or any combination thereof. Such application shall be made on form TM – 53.

103. Grouping of items of the Fifth Schedule. –

For the purposes of applications for the registration of trade marks consisting exclusively of letters, numerals or any combination thereof made on form TM – 53, the items of the Fifth Schedule to these rules shall be grouped as follows; and goods falling in each group shall be deemed to be goods of the same description and goods falling in different groups shall not be deemed to be goods of the same description.

Group 1 – Items 1, 4, 5, 8, 9, 10, 11, 12, 16, 19, 20, 22, 23, 24, 25, 26, 27, 30, 33, 36, 37, 39, 41, 42, 44, 45, 48, 49, 54, 55, 59, 61, 62, 65 and 91.

Group 2 – Items 2, 3, 14, 17, 18, 34, 35, and 47.

Group 3 – Items 6, 7, 21, 38 and 52.

Group 4 – Items 13, 29, 75, 77 and 78.

Group 5 – Items 15, 28, 31, 40, 60, 66, 79, 88, 90 and 93.

Group 6 – Items 32, 43, 64 and 94.

Group 7 – Items 46, 83 and 85.

Group 8 – Items 50, 51, 56, 57, 63, 76, 80, 84, 86, 87 and 89.

Group 9 – Item 53.

Group 10 – Items 58, 82 and 92.

Group 11 – Items 67, 68, 69, 70 and 71.

Group 12 – Item 72.

Group 13 – Item 73.

Group 14 – Item 74.

Group 15 – Item 81.

104. Entry in the Refused Textile Marks List. –

Where the registration of a trade mark in respect of textile goods has been refused, the applicant may file a request on form TM – 44 accompanied by the prescribed fee to enter the trade mark in the Refused Textile Marks list and thereupon particulars in reference to that refused mark shall be entered in the list.

105. Continuance of a mark in the Refused Textile Marks List. –

A mark entered upon the Refused Textile Marks List in the manner aforesaid shall remain in that list for a period of seven years from the date of application to register, but it may be continued in the list beyond that period if the applicant for registration, or his successor in business pays the prescribed continuance fee at the Trade Marks Registry on form TM – 45.

106. Notice of applicant. –

1. before removing a mark from the Refused Textile Marks List for non-payment of the prescribed continuance fee the Registrar shall, at a date not more than six months but not less than three months prior to the date on which the removal of the mark would be due, give notice in writing that the mark will not be continued in the said list after a date to be specified in the notice unless the prescribed continuance fee is paid on or before the said date.
2. The notice mentioned in the foregoing sub-rule shall be addressed to the applicant at the address appearing in the Refused Textile Marks List. In case such notice is returned by the postal authorities the Registrar may, but without being under any obligation to do so, discover the changed address of the applicant if he be still in business, or of his successor in business, with a view to bring the notice to his attention.

107. Amendment of the Refused Textile Marks List. –

An application for amendment of an entry relating to the name, address or description of the proprietor of refused mark entered in the Refused Textile Marks List, shall be made on form TM – 16. If the Registrar is satisfied that it would be just and proper to allow the amendment he may accept the application in which case entry shall be amended accordingly.

108. Search. –

Upon receipt of an application for the registration of a trade mark or a certification trade mark relating to textile goods, the Registrar shall cause a search to be made among the registered trade marks and certification trade

marks, the Refused Textile Marks List, and pending applications for registration, for the purpose of ascertaining whether there are on record in respect of the same goods or description of goods any marks identical with the mark sought to be registered or so nearly resembling it as to render it likely to deceive or cause confusion and the Registrar may cause the search to be renewed at any time before the acceptance of the application.

109. Application for registration, additional representation. –

Every application for the registration of a trade mark (other than a trade mark to which rule 100, 101 or 102 applies) relating to textile goods shall be made on form TM – 2 and shall be accompanied by six additional representations of the mark. The representations of the mark on the application and its duplicate and the additional representations shall correspond exactly with one another. The additional representations shall in all cases be 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.

**CHAPTER – II. –
Rules under sub-section (2) of section 64**

110. Definition. –

For the purposes of this Chapter, unless there is anything repugnant in the subject or context, -

- a. "balanced numeral" means a trade mark consisting of either identical numerals or identical letters of not less than three nor more than seven digits;
- b. "digit" includes a single letter;
- c. "letter fraction" means a fraction containing one or more letters.

111. Non-registrability of certain marks. – In respect of textile goods the following marks shall not be capable of registration, namely :-

- a. any numeral of one digit or of more than six digits not being a balanced numeral;
- b. a single letter or any combination of letters or more than six letters not being a balanced numeral;
- c. any combination of numerals and letters of more than eight digits;
- d. any fraction or letter fraction consisting of more than eight digits together;
- e. any fraction or letter fraction having less than three digits together;
- f. any combination of numerals and fractions or more than six digits;
- g. any combination of numerals, letters, fractions and letter fractions either having more than eight digits or ending with a fraction of more than one digit in the numerator or in the denominator;
- h. numerals or letters representing cloth dimensions;
- i. a balanced numeral which does not consist of at least two more or two less digits than a balanced numeral of the same series already registered in the name of a different person in respect of the same goods or description of goods.

112. Marks likely to deceive or to cause confusion. –

- 1. A trade mark consisting of numerals, letters, fractions, letter fractions, or any combination thereof, and not being a balanced numeral, shall not be capable of being registered as a textile mark if it does not differ from a trade mark registered in the name of a different person in respect of the same goods or description of goods :-
 - a. in the case of numeral not exceeding four digits, in at least one corresponding digit;
 - b. in the case of numeral of five digits, in at least two corresponding digits;

- c. in the case of numeral of six digits, in at least three corresponding digits;
 - d. in the case of a combination of two letters, in at least one corresponding letter;
 - e. in the case of combination of three or four letters, in at least two corresponding letters;
 - f. in the case of a combination of five or six letters, in at least three corresponding letters;
 - g. in the case of a mark consisting of one letter and one numeral digit, in at least one of them;
 - h. in the case of mark consisting of one letter and two or three numeral digits, in at least one corresponding numeral digit;
 - i. in the case of mark consisting of one letter and four or more numeral digits, in at least two corresponding digits;
 - j. in the case of a mark consisting of two or more letters and one or more numeral digits, in at least one corresponding letter and one corresponding numeral digit;
 - k. in the case of a fraction or letter fraction or any combination thereof in which the total number of digits in the numerator and denominator is three or four, in at least one corresponding digit from either the numerator or the denominator;
 - l. in the case of a fraction or letter fraction or any combination thereof in which the total number of digits in the numerator and denominator is five or more, in at least one corresponding digit in the numerator and one corresponding digit in the denominator or two corresponding digits in either the numerator or the denominator;
 - m. in the case of a combination consisting of a numeral and a fraction in at least one corresponding numeral digit;
 - n. in the case of a combination of letters, numerals, and fractions (including letter fractions) :
 - i. where the total number of digits excluding the fraction is not more than three, in at least one corresponding digit;
 - ii. where the total number of digits, excluding the fraction, is four or more, in at least two corresponding digits.
2. Nothing in sub-rule (1) shall be construed to signify that where a trade mark does not come within the scope of any case specified in the said sub-rule, the mark shall necessarily be regarded as not being likely to deceive or to cause confusion.

113. **Exception in the case of 'old' marks.** –

In the case of a trade mark consisting of letters, numerals or any combination thereof which in respect of the same goods as those in relation to which registration is applied for, has been continuously used (either by the applicant for registration or by some predecessor in his business, and either in its original form or with additions or alterations not substantially effecting its identity) during the period from a date prior to the 25th day of February, 1937, to the date of application for registration, the Registrar shall not refuse registration by reason only of the fact that the trade mark does not satisfy the conditions and restrictions laid down in clause (i) of rules 111 or in rule 112 and may register such mark on evidence or user.

CHAPTER III. – Advisory Committee

114. Constitution. –

1. For the purpose of section 66, an Advisory Committee shall be constituted consisting of members appointed by the Central Government on the recommendation of the Associations specified in the Seventh Schedule to these rules.
2. The number of recommendations which the Associations will be entitled to make shall be those specified in the said Schedule :

Provided that if within the period allowed by the Central Government for this purpose any of the said Associations fails to make any recommendation or to make the full number of recommendations which it is entitled to make, the Central Government may appoint the required number of members of the Advisory Committee of its own motion without any such recommendation.

3. The Central Government may appoint other persons versed in the usage of the textile trade as members of the Committee.

115. Tenure of office of members. –

The tenure of office of each member shall be two years, but a retiring member shall be eligible for re-appointment at the end of his tenure:

Provided that a member may continue to hold office after the expiry of two years from his appointment until such time as he is re-appointed or another member is appointed in his place.

116. Substitution of members. –

Whenever any member of the Advisory Committee ceases to reside in Bangladesh, or becomes incapable of acting as a member of the Advisory Committee, the Central Government may appoint another person to be a member in his stead, in accordance with the provision of rule 114.

117. Co-option of members. –

Whenever it is considered expedient so to do, the Committee may co-opt one or more persons as its members for the purpose of any of its meetings :

Provided that any person co-opted as a member for the purpose of any meeting shall automatically cease to be a member after the termination of the said meeting.

118. Meetings. –

1. The Advisory Committee shall elect two of its members as Chairman and Vice-Chairman respectively. When the Chairman or Vice-Chairman ceases to hold office, the vacancy shall be filled by re-election at the next meeting of the Advisory Committee.
2. The Advisory Committee shall also appoint a Secretary and deposit the name and address of the Secretary at the Trade Marks Registry.
3. The meetings of the Advisory Committee shall be convened by the Chairman at such time and place as he thinks fit.

119. **Manner of consultation.** –

Any question which the Advisory Committee is required to consider and advise upon may be referred for decision to the members of the Advisory Committee either as its meetings or by circulation of the papers:

Provided that any question referred by circulation of papers, shall on request of at least ten members of the Advisory Committee, be placed on the agenda of the next meeting of the Committee.

120. **Facts of a case for advice.** –

The Registrar shall send in writing to the Advisory Committee the facts relating to the case in which their advice is sought.

121. **Time-limit for giving advice.** –

The advice sought by Registrar From the Advisory Committee shall be given by the Committee in writing within 21 days from the date of the receipt of the letter seeking advice, but the Registrar may extend the time at the request of the Advisory Committee.

122. **Further information.** –

Where for the purpose of giving advice sought by the Registrar, the Committee requires further information, the Secretary may write to the Registrar and the required information shall be given by the Registrar in writing.

123. **Presiding at Meetings.** –

The Chairman shall preside at every meeting at which he is present, and if he is absent, the Vice-Chairman shall preside over the meeting. In the absence of the Chairman and the Vice-Chairman, the members present shall elect one of their members to preside over the meeting.

124. **Decision by voting.**

Whenever the members of the Committee are divided in their opinion on any point at issue, the question shall be decided by a majority of the votes, and the voting shall be by show of hands. The Chairman may vote, and in the case of an equality of votes, shall have a casting vote.

125. **Record of meetings.** –

The secretary shall maintain a record of all business transacted by the Advisory Committee. The Registrar shall be entitled to call for copies certified to be true by the Secretary of the record of the business transacted at any meeting.

PART – IV

REGISTRATION OF TRADE MARKS AGENTS

126. Definitions. –

In this Part, unless there is anything repugnant in the subject or context : -

- a. "Agents Register" means the Register of Trade Marks Agent kept under rule 127 of these rules ;
- b. "Graduate" means a Graduate of a University established by law in Bangladesh, any foreign University recognised by the Central Government.
- c. "Registered Agent" means a Trade Marks Agent whose name is actually on the Agents' Register.

127. Register to Trade Marks Agents. –

The Central Government shall maintain a Register of Trade Marks Agents wherein shall be entered the name, the address, the business address, the qualifications and the date of registration of every Registered Agent.

128. Eligibility for registration. –

1. No person shall be eligible for registration as a Trade Marks Agent unless he is resident in Bangladesh and has been considered by the Central Government to be a fit person to become a Registered Agent.
2. A candidate for registration as a Trade Marks Agent shall ordinarily be a Graduate, unless the Central Government in any particular case, otherwise allows.

129. Persons debarred from registration. –

A person shall not be eligible for registration as a Trade Marks Agent if he –

- i. has been adjudged by a competent court to be of unsound mind;
- ii. is an undischarged insolvent;
- iii. being a discharged insolvent has not obtained from the court a certificate to the effect that his insolvency was caused by misfortune without any misconduct on his part;
- iv. has been convicted by a competent court, whether within or without Bangladesh of an offence punishable with transportation or imprisonment, unless the offence of which he has been convicted has been pardoned or unless on an application made by him, the Central Government has, by order in this behalf, removed the disability; or
- v. is considered by the Central Government not to be a fit and proper person to become a Registered Agent by reason of any Act of negligence, misconduct or dishonesty committed in his professional capacity.

130. Manner of making application. –

All application under the provisions of this Part, shall be sent to, or left at, the Trade Marks Registry, and shall be made in duplicate.

131. Applications for registration as a Trade Marks Agent. –

1. Every person desiring to be registered as a Trade Marks Agent shall make an application on form TMA – 1.
2. The applicant shall furnish such further information bearing on his application as may be required of him at any time by the Central Government or the Registrar.

132. Procedure on application. –

1. On receipt of an application for the registration of a person as a Trade Marks Agent, the Registrar shall appoint a date on which the candidate will appear before him for an interview.
2. After a candidate has been interviewed, and any further information bearing on his application, which the Registrar may consider necessary, has been obtained, the Registrar shall forward to the Central Government the application and other relevant papers along with his recommendations thereon.

133. Certificate of registration. –

If the Central Government considers an applicant eligible for registration as a Trade Marks Agent, it shall send an intimation to that effect to the applicant, and any person so intimated may pay the prescribed fees for his registration as a Trade Marks Agent. On receipt of the prescribed fees, the Registrar shall send an intimation thereof to the Central Government; and the Central Government shall thereupon cause the applicant's name to be entered in the Agent's Register, and shall issue to him a certificate on form 0-4 of registration as a Trade Marks Agent.

134. Continuance of a name in the Agents' Register. –

The continuance of a person's name in the Agents' Register shall be subject to his payment of the fees prescribed in that behalf.

135. Removal of agent's name from Agents' Register. –

1. The Central Government may remove permanently or temporarily from the Agents' Register the name or any Registered Agent –
 - a. from whom a request has been received to that effect; or
 - b. from whom the annual fee has not been received on the expiry of three months from the date on which it became due; or
 - c. who is found to have been subject at the time of his registration or thereafter has become subject, to any of the disabilities stated in clauses (I), (ii), (iii) and (iv) of rule 129; or
 - d. whom the Central Government has declared not to be a fit and proper person to remain on the register by reason of any Act of negligence, misconduct or dishonesty committed in his professional capacity:

Provided that before making such declaration, the Central Government shall call upon the person concerned to show cause why his registration should not be cancelled and shall make such further enquiry, if any, as it may consider necessary.

3. The Central Government shall remove from the Agents' Register the name of any Registered Agent who is dead.
4. The removal of the name of any person from the Agents' Register shall be notified, in the official Gazette and in the Journal and shall, wherever possible, be communicated to the person concerned.

136. Restoration of removed names. –

1. The Central Government may on an application on form TMA – 2 from a person whose name has been temporarily removed under sub-rule (1) or rule 135, restore his name to the Agents' Register.
2. The restoration of a name to the Agents' Register shall be notified in the official Gazette and in the Journal, and shall whenever possible be communicated on the person concerned.

137. Alteration in the Agents' Register. –

1. A Registered Agent may apply on form TMA – 3 for alteration of his name, address, business address or qualifications entered in the Agents' Register. On receipt of such application and the

fee prescribed in that behalf, the Central Government shall cause the necessary alteration to be made in the Agents' Register.

2. Every alteration made in the Agents' Register shall be notified in the official Gazette and in the Journal.

138. Publication of the Agents' Register. -

The Agents' Register shall be published from time to time, as the Central Government may deem fit, the entries being arranged in the alphabetical order of the surnames of the Registered Agents and copies thereof shall be placed on sale.

PART – V

RULES RELATING TO BRANCH REGISTRY

139. (1) The Central Government may establish a Branch Registry at any place in the territory to which the Act extends.

(2) **Administration of the Branch.** –Each Branch Registry shall be in charge of Deputy Registrar to Trade Marks, who shall Act under the control and superintendence of the Registrar.

140. **Applications etc.** –

All applications, notice, statements or other documents, or any fees therefor, authorised or required by the Act or these rules to be made, left or sent or paid to the Trade Marks Registry may be made, left or sent or paid to the Branch Registry and shall, thereupon, have effect as if they were duly made, left or sent or paid to the Trade Marks Registry.

141. **Inspection of copy of Register, etc.** –

A copy of the Register and of the Refused Textile Marks List shall be available for inspection on payment of the prescribed fee, at such times on all days on which the Branch Registry is not closed to the public, as may be fixed by the Registrar.

142. **Hearing at the Branch Registry** –

1. Where an application for the registration of a trade mark has been made at the Branch Registry the application shall in the event of a hearing becoming necessary, and if the applicant so desires, be heard at the Branch Registry:

Provided that in the event of the Registrar having to deal with more than one application at one hearing it shall be in the discretion of the Registrar to direct the hearing of the application at Karachi or at the Branch Registry.

2. Where the hearing has taken place at the Branch Registry, the decision in respect thereof shall be pronounced at the Branch Registry.

143. **Repeal and savings.** –

1. The Trade Marks Rules, 1942 are hereby repealed.
2. Anything done, any action taken, any proceeding commenced or any order made under or in pursuance of the Trade Marks Rules, 1942, shall be deemed to have been done, taken, commenced or made under or in pursuance of these rules.