



This document has been provided by the International Center for Not-for-Profit Law (ICNL).

ICNL is the leading source for information on the legal environment for civil society and public participation. Since 1992, ICNL has served as a resource to civil society leaders, government officials, and the donor community in over 90 countries.

Visit ICNL's **Online Library** at
<http://www.icnl.org/knowledge/library/index.php>
for further resources and research from countries all over the world.

Disclaimers

Content. The information provided herein is for general informational and educational purposes only. It is not intended and should not be construed to constitute legal advice. The information contained herein may not be applicable in all situations and may not, after the date of its presentation, even reflect the most current authority. Nothing contained herein should be relied or acted upon without the benefit of legal advice based upon the particular facts and circumstances presented, and nothing herein should be construed otherwise.

Translations. Translations by ICNL of any materials into other languages are intended solely as a convenience. Translation accuracy is not guaranteed nor implied. If any questions arise related to the accuracy of a translation, please refer to the original language official version of the document. Any discrepancies or differences created in the translation are not binding and have no legal effect for compliance or enforcement purposes.

Warranty and Limitation of Liability. Although ICNL uses reasonable efforts to include accurate and up-to-date information herein, ICNL makes no warranties or representations of any kind as to its accuracy, currency or completeness. You agree that access to and use of this document and the content thereof is at your own risk. ICNL disclaims all warranties of any kind, express or implied. Neither ICNL nor any party involved in creating, producing or delivering this document shall be liable for any damages whatsoever arising out of access to, use of or inability to use this document, or any errors or omissions in the content thereof.

VOLUME 22

CONTENTS

Chapter 393. Trades Licensing Act

Chapter 394. Zambia National Tender Board Act

Chapter 395. Vacant

Chapter 396. Gold Trade Act

Chapter 397. Co-operative Societies Act

Chapter 398. Money-lenders Act

Chapter 399. Hire-Purchase Act

Chapter 400. Patents Act

Chapter 401. Trade Marks Act

CHAPTER 393 THE TRADES LICENSING ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title and application
2. Interpretation

PART II

CONTROL OF TRADING AND MANUFACTURING

3. Restriction on trading

4. Restriction on manufacturing
5. Classification and forms of licences
6. Fees and duration of licences
7. Transfer of licences
8. Fee payable on transfer of business to new premises

PART III

LICENSING AUTHORITIES AND ISSUE OF LICENCES

9. Licensing Authorities
10. Registers of licences
11. Notice of intention to apply for trading (wholesale) licence or trading (retail) licence
12. Objections
13. Applications for licences
14. Powers of Licensing Authorities in considering applications
15. General principles affecting issue of licences
16. General restrictions on power to issue licences
17. Restriction on issue of certain licences to non-citizens and avoidance of such licences
18. Licensing Authority may issue a licence subject to conditions
- 18A. Information required for tax purposes
19. Appeals

PART IV

GENERAL

Section

20. Display of licences
21. Entry on premises and production of licences
22. Duplicate licence
23. Partners to surrender licence upon dissolution, etc., of partnership
24. Power of President to revoke licences

25. Power of court to order endorsement, cancellation or disqualification after conviction
26. Repealed by Act No. 32 of 1993
27. Minister may prohibit peddling or hawking
28. Regulations
29. Penalties and evidence
30. Construction

SCHEDULE-Licences and fees

CHAPTER 393

TRADES LICENSING

41 of 1968
41 of 1969
22 of 1971
7 of 1976
4 of 1978
4 of 1988
26 of 1990
5 of 1992
32 of 1993
10 of 1994
13 of 1994.

An Act to amend the law relating to the licensing of certain trades and businesses; and to provide for matters incidental to or connected with the foregoing.

[4th October, 1968]

PART I

PRELIMINARY

1. (1) This Act may be cited as the Trades Licensing Act.

Short title and
application

(2) No licence shall be required under this Act by-

(a) any person specially appointed to conduct a sale of any goods in execution of any order of any court; or

(b) a sheriff or his lawful deputy selling goods in the execution of his lawful duty; or

(c) any duly appointed poundmaster who may sell, on the days duly appointed for such sales, any animals impounded which may lawfully be sold; or

(d) any person who sells any goods solely as a necessary incident to the provision of any professional or other personal services; or

(e) auctioneers; or

(f) any person who sells goods in any area, with the consent in writing of the Licensing Authority for such area, in connection with the raising of funds for philanthropic, charitable, cultural, sporting or educational purposes;

(g) commercial traveller.

(3) Where, under the provisions of any written law other than this Act, a licence fee is payable in respect of the sale of any goods, no licence shall be required under this Act in respect of such sale, and no licence under this Act shall be deemed to authorise any such sale.

(As amended by Act No. 32 of 1993)

2. (1) In this Act, unless the context otherwise requires-

"appropriate fee" means, in relation to any matter, the fee specified in respect of such matter in the Schedule;

"commercial traveller" means a person who travels from place to place within Zambia for the purpose of soliciting or receiving orders for the supply of goods;

"goods" means any goods, wares or merchandise, but does not include-

(a) foodstuffs, livestock and other agricultural and natural products, the growth or produce of Zambia; or

(b) articles of handicraft made and sold by or on behalf of the same

Interpretation

Cap. 290

Cap. 281

Cap. 281

Cap. 281

person (not being a body corporate or a partnership), of which not less than seventy-five per centum in content or value of the materials used shall have been grown or produced in Zambia;

"hawker" means any person who is an itinerant trader with no fixed place of business who goes about from place to place selling goods which he carries with him in any vehicle other than a tricycle, bicycle or handcart;

"licence" means a licence issued under this Act, and includes a duplicate thereof issued under section *twenty-two*;

"licence holder" means a person named in a licence which is in force, and "holder" shall be construed accordingly;

"Licensing Authority" means a Licensing Authority specified in section *nine*;

"local authority" means-

- (a) a city council; or
- (b) a municipal council; or
- (c) a township council; or
- (d) a district council;

"manufacturing" means the transforming, on a commercial scale, of raw materials into finished or semi-finished products and includes the assembling of inputs into finished or semi-finished products, but does not include mining; and "manufacture" shall be construed accordingly.

"market" means a market established under the Markets Act;

"municipal council" and "municipality" have the meaning assigned respectively thereto in section *two* of the Local Government Act;

"pedlar" means any person who is an itinerant trader with no fixed place of business who goes about from place to place selling goods (other than newspapers) which he carries with him on his person or on a tricycle, bicycle or handcart;

"retailer" means a person who sells goods by way of business (whether in conjunction with any other business or not) to other persons reasonably believed by the seller to purchase such goods for a purpose other than the resale thereof by those other persons;

"district council" and "rural area" have the meanings assigned respectively thereto in section *two* of the Local Government Act;

"sell" includes exchange, barter or offer for sale or expose for sale, and "sale" shall be construed accordingly;

"stall" means any stand, shelter, table, place or plot in any area set aside by a local authority for the sale of goods;

"township council" and "township" have the meanings assigned respectively thereto in section *two* of the Local Government Act;

"wholesaler" means a person who sells goods by way of business (whether in conjunction with any other business or not) to other persons reasonably believed by the seller to intend to resell such goods;

"year" means a calendar year.

(2) Subject to the provisions of subsection (3), a person shall be deemed to sell goods by way of business if such person owns or is part-owner of, or controls or partly controls, or is a person interested in, a business consisting wholly or partly in the sale of goods.

(3) Subject to the provisions of subsection (4) of section *twenty-nine*, no person shall be deemed to sell goods by way of business by reason only-

(a) that he is employed as a manager or servant by a person who sells goods by way of business; or

(b) that he is a director or shareholder of a body corporate which sells goods by way of business.

(As amended by Act No.32 of 1993)

PART II

CONTROL OF TRADING AND MANUFACTURING

3. (1) A person shall not sell goods by way of business-

Restriction on trading

(a) unless he is the holder of a licence; or

(b) otherwise than in accordance with the terms of such licence.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

4. (1) A person shall not carry on business as a manufacturer-

Restriction on
manufacturing

(a) unless he is the holder of, or is authorised to do so under, a manufacturing licence; or

(b) otherwise than in accordance with the terms of such a licence.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

(As amended by Act No 32 of 1993)

5. (1) The following licences may be issued under this Act:

Classification
and form of
licences

(a) a trading (wholesale) licence;

(b) a trading (retail) licence;

(c) a hawker's licence;

(d) a pedlar's licence;

(e) a pedlar's (restricted) licence;

(f) a stall licence;

(g) a restricted licence;

(h) an agent's licence;

(i) a manufacturing licence.

(2) A licence shall be in such form as may be prescribed.

(3) A trading (wholesale) licence shall authorise the person named therein to carry on business as a wholesaler, at the premises specified therein, of such goods or class or classes of goods as may be specified therein.

(4) A trading (retail) licence shall authorise the person named therein to carry on business as a retailer, at the premises specified therein, of such goods or class or classes of goods as may be specified therein.

(5) *(Repealed by Act No. 32 of 1993)*

(6) A hawker's licence shall authorise the person named therein to sell goods as a hawker in such area as may be specified therein.

(7) A pedlar's licence shall authorise the person named therein to sell goods as a pedlar in such area as may be specified therein.

(8) A pedlar's (restricted) licence shall authorise the person named therein to sell religious books and tracts in such area as may be specified therein.

(9) A stall licence shall authorise the person named therein to sell such goods as may be specified therein from a stall situated in such market as may be specified therein.

(10) A restricted licence shall authorise the sale of tobacco, cigarettes, breadstuffs, pastry, confectionery and non-alcoholic beverages by any person named therein-

(a) on any railway station or airport specified therein if such person has no store or place of business on such railway station or airport; or

(b) at premises situated in any area specified therein other than a municipality or a township.

(11) An agent's licence shall authorise the person named therein to carry on business as a manufacturer's representative in accordance with such

terms and conditions as may be specified therein.

(12) A manufacturing licence shall authorise the person named therein to manufacture and sell any product or products specified in the licence.

(13) Notwithstanding the repeal of the Investment Act, 1991-

(a) a manufacturing licence that was issued to a person under that Act shall be deemed to have been issued under this Act; and

(b) an application for a manufacturing licence pending under that Act shall be deemed to have been made under this Act to the appropriate Licensing Authority.

(As amended by Act No. 22 of 1971 and No. 32 of 1993)

6. (1) Subject to the provisions of section *eight*, there shall be payable in respect of any licence, at the time it is issued, the appropriate fee:

Fees and duration of licences

Provided that where a licence is issued in respect of any year after the 30th June in that year, the fee payable in respect of such licence shall be one-half of the appropriate fee.

(2) Subject to the provisions of this Act, a licence shall continue in force until the expiry of the 31st December next following the date of issue thereof, and shall thereupon expire.

(3) Any fee payable in respect of a licence under this Act shall-

(a) where the Licensing Authority is a local authority, be paid into the general fund of such local authority;

(b) where the Licensing Authority is the Minister or a District Secretary, be paid into the general revenues of the Republic.

7. (1) Subject to the provisions of this section, a licence shall not be transferable.

Transfer of licences

(2) A Licensing Authority shall-

(a) in the case of the death of a licence holder, and if so requested by the widow or widower or the legal personal representative of the deceased licence holder, transfer the licence to such widow or such widower or such legal personal representative, as the case may be;

(b) in the case of the bankruptcy of a licence holder or assignment for the benefit of his creditors generally, transfer the licence to the lawfully appointed trustee or assignee if so requested by such trustee or assignee;

(c) where a licence holder is a company in liquidation, transfer the licence to the lawfully appointed liquidator if so requested by such liquidator;

(d) in any case where a licence holder becomes subject to any legal disability, transfer the licence to any person lawfully appointed to administer his affairs, if so requested by such person.

(3) Any licence transferred under subsection (2) shall, notwithstanding the provisions of section *six*, continue in force for a period of twelve months from the date of such transfer and shall thereupon expire.

(4) Any person who-

(a) being a licence holder, lends or transfers or assigns a licence to any other person;

(b) without lawful authority, makes use of a licence issued to any other person;

shall be guilty of an offence.

(5) In subsection (2), "licence" does not include a pedlar's licence or a pedlar's (restricted) licence or a restricted licence.

8. (1) Where a Licensing Authority issues a licence (hereinafter

Fee payable on

referred to as "the new licence") to a licence holder applying therefor on the ground that such licence holder intends to transfer his business to new premises and to cease carrying on such business in the premises specified in his existing licence, the fee payable in respect of the new licence shall, if the licence holder surrenders his existing licence to the Licensing Authority at the time the new licence is issued, be equal to ten per centum of the fee paid in respect of the existing licence and no other amount shall be so payable.

transfer of
business to new
premises

(2) A licence surrendered under this section shall expire upon its surrender.

PART III

LICENSING AUTHORITIES AND ISSUE OF LICENCES

9. (1) The following shall be Licensing Authorities for the purposes of this Act:

Licensing
Authorities

(a) for the issue of any licence (other than a licence applied for by a local authority) for the manufacture or sale of goods-

- (i) in a city, the city council thereof;
- (ii) in a municipality, the municipal council thereof;
- (iii) in a township, the township council or the management board thereof, as the case may be;
- (iv) in a district, the district council thereof;
- (v) in any other area, such authority as the Minister may, by statutory instrument, prescribe as the Licensing Authority for the area;

(b) for the issue of any licence to a local authority, the Minister.

(2) A Licensing Authority may authorise, in writing, any person to issue a licence on behalf of the Authority.

(As amended by Act No. 22 of 1971 and No. 32 of 1993)

10. (1) Every Licensing Authority shall cause to be kept a register of

Registers of

licences in such form and containing such particulars as may be prescribed, and there shall be entered in such register of licences the details of any licence or duplicate licence issued by such Licensing Authority, and of any endorsement or cancellation of a licence notified to such Licensing Authority under section *twenty-five*.

licences

(2) The register of licences of a Licensing Authority shall be available for inspection by any member of the public during such hours as the licensing office of such Licensing Authority is open for business.

11. (1) Any person who intends to apply to a Licensing Authority for a trading (wholesale) licence or a trading (retail) licence shall, subject to the provisions of subsection (3), give notice of such intention in accordance with this section.

Notice of
intention to
apply for
trading
(wholesale)
licence or
trading (retail)
licence

(2) A notice of intention under this section shall be in the prescribed form and shall, not less than fourteen days before the application for the licence is made, be published in the *Gazette* and in two issues of a newspaper circulating in the District where it is intended to sell goods under such licence.

(3) A Licensing Authority may, upon application by any person referred to in subsection (1), exempt such person in writing from the requirements of subsection (2) if such Licensing Authority is satisfied that such person is-

(a) in the case of a person who intends to apply for a trading (wholesale) licence, the holder of a licence authorising him to carry on business as a wholesaler in the area of such Licensing Authority; or

(b) in the case of a person who intends to apply for a trading (retail) licence, the holder of a licence authorising him to carry on business as a retailer in the area of such Licensing authority;

and such exemption may be granted subject to such conditions with respect to the giving of notice of intention for the purpose of this section as the Licensing Authority may impose.

(4) Any person exempted under subsection (3) shall, if he complies with the conditions imposed under that subsection, be deemed to comply with the provisions of this section.

12. (1) Where a notice of intention to apply to a Licensing Authority for a licence is published under subsection (2) of section *eleven*, any person who wishes to object to the issue of such a licence shall, not later than twenty-one days from the last publication of the notice of intention as required by subsection (2) of section *eleven*, give notice of his objection in the prescribed form to such Licensing Authority and to the person named as the applicant in the notice of intention. Objections

(2) No objection under this section shall be considered by a Licensing Authority in respect of an application for a licence unless-

(a) the grounds of such objection are stated;

(b) notice thereof is given to the applicant within the time allowed under subsection (1).

(As amended by Act No. 32 of 1993)

13. (1) Subject to this section, an application for a licence shall be made in the prescribed form to the Licensing Authority for the area in which the applicant intends to carry on the activity to be licensed. Application for licence

(2) An application under subsection (1) shall be accompanied by the prescribed fee.

(As amended by Act No. 32 of 1993)

14. A Licensing Authority, or any person authorised in writing in that behalf by a Licensing Authority, shall, for the purpose of considering an application under section *thirteen*, have power- Powers of Licensing Authorities in considering applications

(a) to take evidence on oath or affirmation and, for that purpose, to administer oaths or affirmations;

(b) to summon, by notice in the prescribed form, any person to give evidence in respect of such application or to produce any book, plan or document relating thereto;

(c) to make such investigation as may be necessary in order to ascertain any of the matters which a Licensing Authority is required to consider under section *fifteen*:

Provided that no person shall be required under this section to produce any book or account or voucher or receipt directly relating to his business or trade.

15. (1) Subject to the provisions of sections *sixteen* and *seventeen*, a Licensing Authority may in its discretion refuse to issue a licence if it is satisfied-

General principles affecting issue of licences

(a) that the applicant is under the age of eighteen years;

(b) that the issue of such licence is likely to cause nuisance or annoyance to persons residing, or occupying premises, in the neighbourhood of the premises in respect of which the licence is sought; or

(c) that the premises on which the applicant intends to conduct his business would not conform to the requirements of any law for the time being in force; or

(d) that the issue of such licence would conflict with any approved or proposed town planning scheme or zoning area; or

(e) that the issue of such licence would operate against the public interest.

(2) If a Licensing Authority, other than the Minister, refuses to issue a licence, it shall, at the time of giving notification of the refusal, inform the applicant in writing of the reasons for the refusal and refer to the relevant provision of this Act on which the refusal is based.

(As amended by No. 22 of 1971 and Act No. 32 of 1993)

16. (1) A Licensing Authority shall refuse to issue a licence to any person who-

General restrictions on power to issue

(a) is an undischarged bankrupt or has entered into a composition or a scheme of arrangement with his creditors which is still binding; or

(b) has, within a period of five years immediately preceding the date of the application, been convicted of an offence against the Bankruptcy Act; or Cap. 82

(c) has, within a period of five years immediately preceding the date of the application, been disqualified from holding a licence by order of a court under section *twenty-five*; or

(d) in the case of an application for a trading (wholesale) licence or a trading (retail) licence, has not complied with the provisions of section *eleven*; or

(e) in the case of an application for a restricted licence for the sale of goods on a railway station or airport, is not permitted in writing by the authority having control of such railway station or airport to sell goods thereon.

(2) Without prejudice to the provisions of subsection (1), a Licensing Authority shall refuse to issue a licence to a partnership if any partner thereof is a person referred to in paragraph (a), (b) or (c) of subsection (1).

17. A Licensing Authority may not issue any of the licences under this Act to an applicant who is not a Zambian unless-

(a) the applicant has obtained an investment certificate under the Investment Act; and

(b) where the applicant is an individual, he has satisfied the requirements of the Immigration and Deportation Act.

(As amended by Act No. 22 of 1971 and No. 32 of 1993)

Restriction on
issue of licences
to non-citizens
Cap. 385
Cap. 123

18. A Licensing Authority may issue a licence subject to such terms and conditions as it may deem fit, including, but without prejudice to the generality of this section-

(a) a condition that a particular class or particular classes of goods

Licensing
Authority may
issue a licence
subject to
conditions

shall not be sold;

(b) a condition that a particular class or particular classes of goods only may be sold;

(c) a condition that goods may be sold in a particular area.

18A. (1) Subject to the Income Tax Act, a Licensing Authority shall require a licence holder under this Act to provide the Authority with his physical address of the place where he conducts his business or trade.

Information
required for tax
purposes
Cap. 323

(2) The information obtained by the Licensing Authority under subsection (1) shall be forwarded to the Commissioner General of the Zambia Revenue Authority at the time when the licence expires or is renewed.

(As amended by Act No. 32 of 1993)

19. (1) An applicant for a licence who is aggrieved by a decision of the Licensing Authority under section *fifteen* rejecting his application may appeal to the Minister, subject to further appeal to the High Court.

Appeals

(2) An appeal under this section shall be lodged by the person aggrieved within thirty days from the date of receipt of the notice that the application has been rejected.

(As amended by Act No. 32 of 1993)

PART IV

GENERAL

20. (1) Where a licence is issued in respect of any premises, the licence holder shall ensure that such licence is displayed at all times in a prominent position on such premises.

Display of
licences

(2) A licence holder who contravenes the provisions of subsection (1) shall be guilty of an offence.

21. (1) A police officer of or above the rank of Sub Inspector, or a Trade Inspector authorised in writing by the Minister or a Council Policeman or employee authorised in writing in that behalf by a Licensing Authority (hereinafter referred to as an "authorised person") may, on production of evidence of his identity and authority to any person reasonably requiring it-

Entry on
premises and
production of
licences

(a) at any reasonable time, enter any premises where goods are being sold and require any person in charge of such premises to produce the licence issued in respect of such premises for inspection;

(b) require any person selling goods as a hawker or a pedlar to produce a licence authorising such sale for inspection;

(c) require any person referred to in paragraph (a), (b) or (c) to give such information as he may reasonably require to enable him to ascertain whether the provisions of this Act are being complied with.

(2) Any licence holder, or any person referred to in paragraph (a), (b) or (c) of subsection (1), who-

(a) fails to produce a licence upon being lawfully required to do so under subsection (1); or

(b) hinders or obstructs a police officer or authorised person acting under subsection (1);

shall be guilty of an offence.

(As amended by Act No. 32 of 1993)

22. (1) Where any licence is lost, destroyed or defaced, the licence holder may make application in the prescribed form to the Licensing Authority by whom such licence was issued for a duplicate of such licence, and the Licensing Authority shall, if satisfied that such licence is lost, destroyed or defaced and has not expired, issue a duplicate thereof to the licence holder.

Duplicate
licence

(2) An application under this section shall be accompanied by the appropriate fee.

23. (1) Where the constitution of a partnership to whom a licence is issued is changed otherwise than by the death of a partner, it shall be the duty of every person who was a partner thereof immediately before such change to give notice of such change to the Licensing Authority which issued such licence.

Partners to surrender
licence upon
dissolution, etc., of
partnership

(2) A licence issued to a partnership referred to in subsection (1) shall, if it has not sooner expired, become void at the expiration of a period of six months from the date of the change in the constitution of such partnership and shall be surrendered upon the expiration of the said period of six months to the Licensing Authority by whom it was issued.

(3) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

24. (1) The Minister may in writing, revoke a licence issued under this Act if the licence holder-

Power of
Minister to
revoke licence

(a) obtained the licence by fraud or deliberate or negligent submission of false or misleading facts or statements; or

(b) contravenes the terms and conditions of the licence.

(2) The Minister shall, before revoking a licence, give written notice to the licence holder of his intention to revoke the licence and the grounds for the revocation, and shall require the licence holder to show cause within a period of twenty-one days why the licence should not be revoked.

(3) If the licence holder under subsection (2) fails to show cause to the satisfaction of the Minister as to why his licence should not be revoked, the Minister shall revoke the licence.

(4) Any licence holder who is aggrieved by the revocation of his licence may appeal to the High Court within thirty days from the date of receipt of the notice revoking the licence.

(As amended by Act No. 32 of 1993)

25. (1) Subject to subsection (3), if the holder of a licence is convicted by a court of an offence in respect of the sale of goods, whether the offence is against this Act or any other written law, the court may endorse the conviction on the licence.

Power of court to order endorsement, cancellation or disqualification after conviction

(2) Subject to subsection (3), if a licence holder whose licence has been endorsed under subsection (1) is convicted of another such offence within two years of the date of the endorsement, the court may, in addition to any other penalty, order that-

(a) the licence shall be revoked; and

(b) the licence holder shall be disqualified from holding the licence that is endorsed for a specified period.

(3) Subsections (1) and (2) shall not apply if the licence holder proves that-

(a) the offence was not committed knowingly or wilfully; or

(b) in the case of an act or omission by an employee of the licence holder, the licence holder had taken reasonable steps to prevent the commission of the offence.

(4) Where a licence is endorsed, or where a court makes an order for the cancellation of a licence and the disqualification of a licence holder, under subsection (1), the court shall cause the Licensing Authority which issued such licence to be notified of such endorsement or of such order, as the case may be, and such Licensing Authority shall cause the particulars of such endorsement or order to be entered in the register of licences kept by such Licensing Authority under section *ten*.

(5) Any person whose licence is endorsed or cancelled, under subsection (1) or who is disqualified from holding a licence by order of a Court under subsection (2), may appeal against such order in the same manner as against a conviction, and the court may suspend the operation of such order, subject to such conditions as it may deem fit, pending the

determination of such appeal.

(As amended by Act No. 32 of 1993)

26. *Repealed by Act No. 32 of 1993.*

27. (1) The Minister may, by statutory instrument, prohibit peddling or hawking of any class of goods in any area specified in the statutory instrument, if- Minister may prohibit peddling or hawking

(a) he is requested to do so by a Local Authority; and

(b) he is satisfied that it is in the public interest to do so.

(2) Any person who contravenes the provisions of a statutory instrument under this section shall be guilty of an offence.

(As amended by Act No. 32 of 1993)

28. (1) The Minister may, by statutory instrument, make regulations prescribing all matters which, by this Act, are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the regulations under subsection (1) may provide for-

(a) the keeping of books, documents, accounts and records in respect of the manufacturing and sale of goods by licence holders, including the entries to be made therein in respect of dealings in goods;

(b) the manner in which applications for licences may be made and the forms to be used for such applications;

(c) the form of licences; and

(d) the form of the register of licences required to be kept by a Licensing Authority under section *ten*.

(3) Regulations under this section may provide in respect of any contravention thereof that the offender shall be guilty of an offence.

(4) The power of the Minister to make regulations under this section in relation to any matter shall not be construed as derogating from any other powers conferred upon him under this Act to make provision in relation to the same matter.

(As amended by Act No. 41 of 1969, No. 22 of 1971, No. 32 of 1993 and No. 13 of 1994)

29. (1) Any person who is guilty of an offence against this Act shall be liable upon conviction to a fine not exceeding one thousand penalty units and, in addition, where the offence is a continuing offence, to a fine not exceeding two hundred penalty units for each day during which the offence continues. Penalties and evidence

(2) Where, in a prosecution for an offence against this Act, it is relevant to prove that a person is not a citizen of Zambia, it shall be presumed that such person is not a citizen of Zambia until the contrary is proved.

(3) Where, in a prosecution for an offence against this Act, it is alleged that a person is not the holder of a licence, it shall be presumed that such person is not the holder of such licence until the contrary is proved.

(4) Where any offence against this Act is committed by a body corporate, any person, who at the time of the commission of the offence, was the chief executive, or acting or purporting to act in that capacity, shall be guilty of such offence unless he proves-

(a) that the offence was committed without his knowledge or consent; and

(b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in such capacity.

(As amended by Act No. 32 of 1993 and No. 13 of 1994)

3x0. Until such date as the Minister may, by statutory order, appoint, Construction

subsection (5) of section *thirteen* shall be read and construed as
if 666.181818 for 6.18 the date "31st October" there were substituted the
date "31st December".

SCHEDULE

(Sections 2, 5, 6 and 22)

LICENCES AND FEES

<i>Licence</i>	<i>Fees payable</i>		Cap. 281 Cap. 281
	<i>In a specified area</i>	<i>in any other area</i>	
	Fee Units	Fee Units	
(1) Trading (wholesale) licence	1,000	150	
(2) Trading (retail) licence	500	25	
(3) Commercial traveller's licence-			
(a) held by a firm, partnership or individual holding a trading (wholesale) or trading (retail) licence, for one person	600	85	
(b) held by any other firm, partnership or individual, for one person	800	150	
(c) held by every additional employee or partner of a holder of a licence issued under (a) or (b)	100	25	
(4) Hawker's licence	50	15	
(5) Pedlar's licence	25	8	
(6) Pedlar's (restricted) licence	10	3	
(7) Stall licence	50	8	
(8) Restricted licence	50	8	
(9) Duplicate of any licence	10	3	

In this Schedule "specified area" means-

(a) the area for the time being of any city or municipality declared, or deemed to have been declared, to be the area of such city or municipality under the Local Government Act;

(b) the areas for the time being declared as Lusaka Rural District Councils under the Local Government Act.

(As amended by Act No. 10 of 1994 and No. 13 of 1994)

SUBSIDIARY LEGISLATION

TRADES LICENSING

SECTION 9-THE TRADES LICENSING (LICENSING AUTHORITIES) (OTHER AREAS) REGULATIONS

***Statutory
Instruments
368 of 1968
434 of 1968***

Regulations by the Minister

1. These Regulations may be cited as the Trades Licensing (Licensing Authorities) (Other Areas) Regulations. Title
2. An authority specified in the first column of the Schedule is hereby prescribed as the Licensing Authority for the area specified opposite thereto in the second column of the Schedule. Appointment of Licensing Authorities

SCHEDULE

(Regulation 2)

LICENSING AUTHORITIES

<i>First Column</i>	<i>Second Column</i>
Chililabombwe Township Council	Chililabombwe District.
Municipal Council of Chingola Kasompe Township.	.. Chingola District excluding the area of the
Municipal Council of Kabwe .. Mukobeko Township.	Kabwe Urban District excluding the area of the
Kalulushi Township Council ..	Kalulushi District excluding the area of the
Chambeshi Township and the Chibuluma Township.	
City Council of Kitwe..	Kitwe District excluding the area of the Garneton Township.
Municipal Council of Livingstone	Livingstone District.
Municipal Council of Luanshya	Luanshya District excluding the area of the Fisenge
Township.	
City Council of Lusaka ..	Lusaka District excluding the area of the Chelston
Township, the Kabulonga Township, the Kafue Township, the Roma Township and the	
Rufunsa Rural Council.	
Municipal Council of Mufulira ..	Mufulira District excluding the area of the
Kansuswa Township.	
City Council of Ndola..	Ndola Urban District excluding the area of the Twapia
Township.	

(As amended by No. 434 of 1968)

**SECTION 26-THE TRADES LICENSING
(EXEMPTIONS) ORDERS**
Orders by the Minister

***Statutory
Instruments
300 of 1970
171 of 1971
192 of 1971***

- | | |
|---|--|
| 1. These Orders may be cited as the Trades Licensing (Exemptions) Orders. | Title |
| 2. Subject to paragraph 3, the organisations named in the Schedule shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the condition that the profit, if any, of the organisation, whether current or accumulated, shall not in any way be received by any member. | Condition of
exemption |

SCHEDULE

(Paragraph 2)

Africa Evangelical Fellowship

Brethren in Christ Church

Christian Missions to Many Lands

Livingstone Museum

National Food and Nutrition Commission

Ndola Diocese of the Catholic Church

Scandinavian Independent Baptist Union

Zambia Anglican Council

Zambia Council for the Blind

Zambia Institute of Technology Tuck Shop (Luansimba Campus)

**SECTION 26-THE ZAMBIA RAILWAYS
HEADQUARTERS
(STAFF TEA-BAR) (EXEMPTION) ORDER**

***Statutory
Instrument
65 of 1978***

Order by the Minister

- | | |
|--|--|
| 1. This Order may be cited as the Zambia Railways Headquarters (Staff Tea-Bar) (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule shall be exempt from the operation of section <i>three</i> of the Trades Licensing Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the articles sold shall be restricted to cooked food for consumption on the premises and to sundry supplies, including beverages and tobacco; and that the sales be restricted to employees of the Zambia Railways engaged in transportation and ancillary services. | Conditions of
exemption |

SCHEDULE

(Paragraph 2)

Zambia Railways

SECTION 26-THE TRADES LICENSING (CHINGOLA PARKS AND GARDENS NURSERY KIOSK) (EXEMPTION) ORDER

***Statutory Instrument
93 of 1978***

Order by the Minister

- | | |
|---|-------------------------|
| 1. This Order may be cited as the Trades Licensing (Chingola Parks and Gardens Nursery Kiosk) (Exemption) Order. | Title |
| 2. The kiosk situated at Chingola Municipal Council Parks and Gardens Nursery, is hereby exempted from the provisions of section <i>three</i> of the Act. | Exemption |
| 3. The foregoing exemption shall be subject to the condition that the goods to be sold at the kiosk shall be restricted to foodstuffs for consumption on the premises, and that the sales shall be restricted to the employees of the Municipal Council of Chingola working in the aforementioned nursery. | Conditions of exemption |

SECTION 26-THE TRADES LICENSING (EXEMPTION) ORDER

***Statutory Instrument
109 of
1979***

Order by the Minister

- | | |
|---|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be restricted to sundry supplies, including tobacco; and that the sales shall be restricted to the staff of the Office of the President. | Conditions of exemption |

SCHEDULE

(Paragraph 2)

Dry Canteen of Ndola, Office of the President.

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
11 of 1979***

Order by the Minister

- | | |
|--|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be restricted to sundry supplies, including detergents, toiletries and tobacco; and that the sales shall be restricted to the students and staff of the organisation. | Conditions of
exemption |

SCHEDULE

(Paragraph 2)

Luanshya Technical and Vocational Teachers' College Tuckshop

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
111 of
1979***

Order by the Minister

- | | |
|---|---|
| 1. This Order may be cited as the Trades Licensing (Exemption) (No. 3) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption from necessity to hold licence. |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be those produced by the society in furtherance of the aims and objectives of the society. | Conditions of exemption |

SCHEDULE

(Paragraph 2)

Mpika Self-help Co-operative Society Limited.

THE TRADES LICENSING (EXEMPTION) ORDER

***Statutory
Instrument
227 of
1979***

Order by the Minister

- | | |
|---|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the persons named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods to be sold shall be trade fair or show exhibits; and that such sale shall take place within the fair or show precincts. | Conditions of
exemption |

SCHEDULE

(Paragraph 2)

Trade Fair, Agricultural and Commercial Show Exhibitors

THE TRADES LICENSING (EXEMPTION) ORDER

***Statutory
Instrument
228 of
1979***

Order by the Minister

- | | |
|---|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Trades Licensing Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the condition that the project shall be for the Western Province. | Condition of
exemption |

SCHEDULE

(Paragraph 2)

The Finnish/Zambian Governments Co-operative Project

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
139 of
1980***

Order by the Minister

- | | |
|--|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be restricted to foodstuffs and sundry supplies, including detergents, toiletries and tobacco; and that the sales shall be restricted to centre residents and members of staff. | Conditions of
exemption |

SCHEDULE

(Paragraph 2)

Chitwi Rural Reconstruction Centre Tuckshop, Luanshya

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
83 of 1982***

Order by the Minister

- | | |
|---|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be restricted to items of grocery and stationery and that the sales shall be restricted to the students and staff of the School. | Conditions of
exemption |

SCHEDULE

(Paragraph 2)

Tanzania-Zambia Railway Training School

**SECTION 26-THE TRADE LICENSING (EXEMPTION)
ORDER**

***Statutory
Instrument
185 of
1982***

Order by the Minister

1. This Order may be cited as the Trades Licensing (Exemption) Order.

Title

2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section *three* of the Act.

Exemption
from necessity
to hold licence

3. The foregoing exemption shall be subject to the conditions that the profits, if any, accruing from the sale of goods shall be used for the purpose of furthering the aims and objectives of the organisation, and that such sales shall be restricted to Missions providing educational or health services to the local community in which they are situated.

Conditions of
exemption

SCHEDULE

(Paragraph 2)

Mission Medic-Air Limited

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
79 of 1983***

Order by the Minister

- | | |
|---|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the condition that the goods sold shall be restricted to items produced by students at the Roma Homecraft Centre. | Condition of
exemption |

SCHEDULE

(Paragraph 2)

Roma Homecraft Centre, Lusaka

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
80 of 1983***

Order by the Minister

- | | |
|--|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be restricted to items of soft drinks, cigarettes, cakes, cold snacks and toiletries and that the sales shall be restricted to the students and staff of the Institute. | Condition of
exemption |

SCHEDULE

(Paragraph 2)

National Institute of Public Administration

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
174 of
1983***

Order by the Minister

- | | |
|--|--|
| 1. This Order may be cited as the Trades Licensing (Exemption) Order. | Title |
| 2. Subject to paragraph 3, the organisation named in the Schedule hereto shall be exempt from the operation of section <i>three</i> of the Act. | Exemption
from necessity
to hold licence |
| 3. The foregoing exemption shall be subject to the conditions that the goods sold shall be restricted to items of grocery, toiletry and stationery and that the sales shall be restricted to the students and staff of the Institute. | Condition of
exemption |

SCHEDULE

(Paragraph 2)

Zambia Air Services Training Institute

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
159 of
1987***

Order by the Minister

1. This Order may be cited as the Trades Licensing (Exemption) (No. 2) Order. Title
2. Subject to paragraph 3, Holy Cross Secondary School shall be exempt from the operation of section *three* of the Act. Exemption
3. The foregoing exemption shall be subject to the conditions that- Conditions of exemption
 - (i) the tuck shop is the property of Holy Cross Secondary School;
 - (ii) the goods sold shall be restricted to items of grocery, stationery, soft drinks, cakes, bread, cold snacks, sold to the pupils and workers for the school.

**SECTION 26-THE TRADES LICENSING
(EXEMPTION) ORDER**

***Statutory
Instrument
158 of
1987***

Order by the Minister

1. This Order maybe cited as the Trades Licensing (Exemption) Order. Title
2. Subject to paragraph 3, the Zambia National Service shall be exempt from the operation of section *three* of the Act. Exemption
3. The foregoing exemption shall be subject to the conditions that- Conditions of exemption

- (i) the goods shall be sold only in the canteens, clubs and messes owned by the Zambia National Service;
- (ii) the canteens, clubs and messes are on the premises of the Zambia National Service;
- (iii) the sale of goods is restricted to produce of the Zambia National Service.

SECTION 26-THE TRADES LICENSING (MANSA WHITE FATHERS) (WHOLESALEERS' EXEMPTION) ORDER

***Statutory Instrument
301 of
1970***

Order by the Minister

- 1. This Order may be cited as the Trades Licensing (Mansa White Fathers) (Wholesaleers' Exemption) Order. Title
- 2. Any wholesaler who sells goods to the Mansa White Fathers shall, in respect of any such sale, be exempt from the provisions of section *three* of the Act. Exemption

SECTION 28-THE TRADING (GENERAL) REGULATIONS
Regulations by the Minister

***Statutory Instruments
364 of 1968
191 of 1971
Act No.
13 of 1994***

- 1. These Regulations may be cited as the Trading (General) Regulations. Title
- 2. A notice of intention published pursuant to section *eleven* of the Act shall be published in the form set out in Form 1 in the Schedule and shall contain the particulars therein prescribed. Form of advertisement under section 11 of Act

- | | |
|---|---|
| <p>3. An application for a trading (wholesale) licence shall be in the Form 2 in the Schedule and shall contain the particulars therein prescribed.</p> | <p>Form of application for trading (wholesale) licence</p> |
| <p>4. Subject to the provisions of regulation 5, an application for a trading (retail) licence shall be in the Form 3 in the Schedule and shall contain the particulars therein prescribed.</p> | <p>Form of application for trading (retail) licence in respect of non-prescribed goods</p> |
| <p>5. (1) An application for a trading (retail) licence in respect of the sale of prescribed goods only shall be in the Form 4 in the Schedule and shall contain the particulars therein prescribed.</p> | <p>Form of application for trading (retail) licence in respect of prescribed goods only</p> |
| <p>(2) In this regulation, "prescribed goods" has the meaning assigned thereto in section <i>seventeen</i> of the Act.</p> | |
| <p>6. An application for a commercial traveller's licence shall be in the Form 5 in the Schedule and shall contain the particulars therein prescribed.</p> | <p>Form of application for commercial traveller's licence</p> |
| <p>6A. An application for a manufacturer's licence shall be in the Form 18 in the Schedule and shall contain the particulars therein prescribed.
(As amended by Act No. 191 of 1971)</p> | <p>Form of application for manufacturer's licence</p> |
| <p>6B. An application for an agent's licence shall be in the Form 19 in the Schedule and shall contain the particulars therein prescribed.
(As amended by Act No. 191 of 1971)</p> | <p>Form of application for agent's licence</p> |

- 7.** An application for-
- (a) a hawker's licence;
 - (b) a pedlar's licence;
 - (c) a pedlar's (restricted) licence;
 - (d) a stall licence; or
 - (e) a restricted licence;

Form of
application for
other licence

shall be in the Form 6 in the Schedule and shall contain the particulars therein prescribed in respect of such application.

- 8.** An application for a duplicate licence pursuant to section *twenty-two* of the Act shall be in the Form 7 in the Schedule and shall contain the particulars therein prescribed.

Form of
application for
duplicate
licence

- 9.** The form of licences shall be as follows:

Form of
licences

- (a) a trading (wholesale) licence shall be in the Form 8 in the Schedule;
- (b) a trading (retail) licence shall be in the Form 9 in the Schedule;
- (c) a commercial traveller's licence shall be in the Form 10 in the Schedule;
- (d) a hawker's licence shall be in the Form 11 in the Schedule;
- (e) a pedlar's licence shall be in the Form 12 in the Schedule;
- (f) a pedlar's (restricted) licence shall be in the Form 13 in the Schedule;
- (g) a stall licence shall be in the Form 14 in the Schedule;
- (h) a restricted licence shall be in the Form 15 in the Schedule.
- (i) a manufacturer's licence shall be in the Form 20 in the Schedule;
- (j) an agent's licence shall be in the Form 21 in the Schedule.

(As amended by No. 191 of 1971)

- 10.** A register of licences kept by a Licensing Authority pursuant to section *ten* of the Act shall be in the form prescribed in Form 16 in the Schedule.

Form of register
of licences

11. Notice of an objection pursuant to section *twelve* of the Act shall be in the Form 17 in the Schedule and shall contain the particulars therein prescribed.

Form for
objections

12. (1) Every appeal under section *nineteen* of the Act against a decision of a Licensing Authority shall be delivered in writing to the Minister not later than thirty days after the date on which such decision is notified to the appellant by the Licensing Authority:

Procedure for
appeals to
Minister

Provided that the Minister may in his discretion extend the time for delivering an appeal in any particular case.

(2) An appellant shall set out clearly and concisely the grounds of his appeal, together with particulars of his current postal address.

(3) An appellant shall, within the time allowed for an appeal under sub-regulation (1), give notice in writing of his appeal to the Licensing Authority whose decision is the subject of the appeal and shall state the grounds of the appeal in such notice.

(4) Where a Licensing Authority is notified of an appeal pursuant to sub-regulation (3), such Licensing Authority shall prepare and submit to the Minister a report in writing of the decision appealed against.

(5) The decision of the Minister in respect of an appeal shall be notified in writing to the appellant and to the Licensing Authority concerned, and such notification may be issued under the hand of any person duly authorised by the Minister in that behalf.

(6) Any notice required under this regulation may be served by post and, for that purpose, the postal address of the Minister shall be:

Permanent Secretary,
(Trades Licensing Appeals),
Ministry of Commerce and Industry,
P.O. Box 31968
LUSAKA.

(7) Any notice required to be served upon any person under this regulation shall, if served by post at the last known postal address of such person, be deemed to have been properly served.

SCHEDULE

PRESCRIBED FORMS

FORM 1
(Regulation 2)

THE TRADES LICENSING ACT

NOTICE OF INTENTION TO APPLY FOR A TRADING (WHOLESALE) LICENCE/
TRADING (RETAIL) LICENCE*

*Delete licence not applicable.

Full name of applicant

Postal address

Business name (*if any*)

Premises at which the business is to be carried on:

Stand No Shop/Street No

Name of Street

Town/Village

District

Details of licence it is intended to apply for:

(1) Trading (Wholesale) Licence;

(2) Trading (Retail) Licence;

 (*a*) in a prescribed area;

 (*b*) for prescribed goods only.

(Delete sections which are not applicable.)

FORM 2
(Regulation 3)

THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF A TRADING (WHOLESALE) LICENCE

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Premises at which goods will be sold:
Stand No Shop/Street No
Name of Street
Town/Village
District
5. I/We apply for a Trading (Wholesale) Licence in the knowledge that the holder of such licence who sells goods by way of business (whether in conjunction with any other business or not) to other persons reasonably believed by the seller not to intend to resell such goods, contravenes the provisions of section 3 of the Trades Licensing Act and shall be guilty of an offence unless he also holds a valid retail trading licence.
6. My/Our intention to apply for a licence was published in-
the Government *Gazette* on
the newspaper on (a)
(b)
and the *Gazette* and newspaper cuttings are enclosed herewith.
7. I
a of
hereby declare as follows:
That the information given in this application is true and correct to the best of my knowledge and belief:
Dated the day of 19

Applicant

NOTE.-This application shall be accompanied by the appropriate fee.

(See reverse for Schedule of Fees)

SCHEDULE TO THE ACT

LICENCES AND FEES

(Sections 2, 5, 6 and 22)

					<i>Fee units</i>
(1) Trading (wholesale) licence	..	..	..	.. ..	1500
(2) Trading (retail) licence-					
(a) in a prescribed area	..	..	..	..	750
(b) in any other area	..	..	..	..	375
(3) Commercial traveller's licence-					
(a) held by a firm, partnership or individual holding a trading (wholesale) or trading (retail) licence, for one person	..	..		.. ..	750
(b) held by any other firm, partnership or individual for one person	..	..	..	..	1800
(c) held by every additional employee or partner of a holder of a licence issued under (a) or (b)	..	..		..	300
(4) Hawker's licence	..	..	..	.. ..	150
(5) Pedlar's licence	..	..	..	.. ..	75
(6) Pedlar's (restricted) licence	..	..	..	.. ..	15
(7) Stall licence..	..	..	..	..	75
(8) Restricted licence	..	..	..	.. ..	75
(9) Duplicate of any licence	..	..	..	.. ..	15
(10) Agents licence	..	..	..	.. ..	750
(11) Duplicate of any licence	..	..	..	.. ..	15

(As amended by Act No. 13 of 1994)

FORM 3
(Regulation 4)

THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF A TRADING (RETAIL) LICENCE

(Application for issue of a Trading (Retail) Licence solely for the sale of prescribed goods should be made on Form 4)

Part I

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Premises at which goods will be sold:
Stand No Shop/Street No
Name of Street
Town/Village
District
5. If the application is in respect of premises in a prescribed area give the following details if a general trading licence in the name of the applicant for premises in the same prescribed area was held in 1968:
Stand No Shop/Street No
Name of Street
No. of licence Date of issue

Part II

6. If the applicant is an individual, state:
 - (a) Home address
 - (b) Date of birth
 - (c) National Registration Card No
 - (d) Citizenship details*

Part III

7. If the applicant is a body corporate (including a co-operative society), state:
Registered office

Date of formation

8. Give details of all directors (officers in case of a co-operative society):

<i>Full Name</i>	<i>Country of Residence</i>	<i>Date of Birth</i>	<i>Citizenship Details*</i>	<i>No. of shares held</i>
----------------------	---------------------------------	--------------------------	---------------------------------	-------------------------------

9. Give details of all shareholders (members in case of a co-operative society):

<i>Full Name</i>	<i>Country of Residence</i>	<i>Date of Birth</i>	<i>Citizenship Details*</i>	<i>No. of shares held</i>
----------------------	---------------------------------	--------------------------	---------------------------------	-------------------------------

(If space insufficient continue details on separate plain sheet of paper and attach to Form.)

10. If any of the shareholders are companies, are any of the shareholders of these companies non-Zambian?

Part IV

11. If the applicant is a partnership give details of all partners:

<i>Full Name</i>	<i>Country of Residence</i>	<i>Date of Birth</i>	<i>Citizenship Details*</i>	<i>Interest in Partnership (shown as a percentage)</i>
----------------------	---------------------------------	--------------------------	---------------------------------	--

Part V

12. My/Our intention to apply for a licence was published in-
the Government *Gazette* on
the newspaper on (a)
(b)

and the *Gazette* and newspaper cutting are enclosed herewith.

13. I/We have obtained or intend to obtain the following type of permit/licence in accordance with the provisions of the Public Health Regulations

14. I/We have obtained or intend to obtain the written consent of the appropriate highway authority in accordance with the provisions of rule 3 of the Roads and Road Traffic (Control of Access, Structures and Works) Rules

15. I,

a of

hereby declare as follows:

That the information given in this application is true and correct to the best of my knowledge and belief:

Dated the day of, 19

Applicant

*If you are a Zambian citizen state whether by:

(i) Birth

or (ii) Naturalisation, if so give Certificate No

or (iii) Registration, if so give Certificate No

NOTE.-This application shall be accompanied by the appropriate fee.

(See reverse for Schedule of Fees)

SCHEDULE TO THE ACT

LICENCES AND FEES

(Sections 2, 5, 6 and 22)

Fee units

(1) Trading (wholesale) licence	..	..	..	..	..	..
1500						
(2) Trading (retail) licence-						
(a) in a prescribed area	..	..	..	..	..	750
(b) in any other area	..	..	..	..	..	375
(3) Commercial traveller's licence-						
(a) held by a firm, partnership or individual holding a trading (wholesale) or trading (retail) licence, for one person	..	..	..	..	..	750
(b) held by any other firm, partnership or individual for one person..	..	..	..	..	..	1800
(c) held by every additional employee or partner of a holder of a licence issued under (a) or (b)..	..	..	..	..	..	300
(4) Hawker's licence	..	..	..	..	..	..
150						

FORM 4
(Regulation 5)

THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF A TRADING (RETAIL) LICENCE SOLELY FOR THE SALE OF PRESCRIBED GOODS

(An applicant who intends to sell non-prescribed goods in addition to prescribed goods should apply on Form 3)

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Premises at which goods will be sold:
Stand No Shop/Street No
Name of Street
Town/Village
District
5. I/We apply for a Trading (Retail) Licence to permit me/us to sell the following prescribed goods:
6. My/Our intention to apply for a licence was published in-
the Government *Gazette* on
the newspaper on (a)
(b)
and the *Gazette* and newspaper cuttings are enclosed herewith.
7. I/We have obtained or intend to obtain the following type of permit/licence in accordance with the provisions of the Public Health Regulations
8. I/We have obtained or intend to obtain the written consent of the appropriate hi authority in accordance with the provisions of rule 3 of the Roads and Road Traffic (Control of Access, Structures and Works) Rules
9. I,
a of

hereby declare as follows:

That the information given in this application is true and correct to the best of my knowledge and belief:

Dated the day of, 19

Applicant

NOTE.-This application shall be accompanied by the appropriate fee
(See reverse for Schedule of Fees)

SCHEDULE TO THE ACT

LICENCES AND FEES

(Sections 2, 5, 6 and 22)

Fee units

(1) Trading (wholesale) licence	..	..	..	..	..	..
1500						
(2) Trading (retail) licence-						
(a) in a prescribed area	..	..	..	..	..	750
(b) in any other area	..	..	..	..	..	375
(3) Commercial traveller's licence-						
(a) held by a firm, partnership or individual holding a trading (wholesale) or trading (retail) licence, for one person	..	..	..	..	..	750
(b) held by any other firm, partnership or individual for one person	..	..	..	..	..	1800
(c) held by every additional employee or partner of a holder of a licence issued under (a) or (b)	..	..	..	..	..	300
(4) Hawker's licence	..	..	..	..	..	150
(5) Pedlar's licence	..	..	..	..	..	75
(6) Pedlar's (restricted) licence	..	..	..	..	..	15
(7) Stall licence..	..	..	..	..	..	75
(8) Restricted licence	..	..	..	..	..	75
(9) Duplicate of any licence	..	..	..	..	..	15
(10) Agents licence	..	..	..	..	..	..

750

(As amended by Act No. 13 of 1994)

FORM 5
(Regulation 6)

THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF A COMMERCIAL TRAVELLER'S LICENCE

1. Name of applicant
2. Postal address
3. Business name (*if any*)
4. I/We apply for a commercial traveller's licence for one person in the name of

I/We certify that I/we hold Trading (Wholesale) Licence/Trading (Retail) Licence
No /do not hold a trading
(wholesale) licence/trading (retail) licence.

5. I/We apply for commercial traveller's licences for
additional employees/partners in the names of

I/We certify that I/we hold Commercial Traveller's Licence No

NOTE.-An additional licence cannot be granted unless the applicant already holds a
commercial traveller's licence.

Applicant

Date

NOTE.-This application shall be accompanied by the appropriate fee.
(See reverse for Schedule of Fees)

SCHEDULE TO THE ACT

LICENCES AND FEES

(Sections 2, 5, 6 and 22)

Fee units

(1) Trading (wholesale) licence	..	..	..	..	..	..
1500						
(2) Trading (retail) licence-						
(a) in a prescribed area	..	..	..	..	..	750

(b) in any other area	..	..	..	..	..	..	375
(3) Commercial traveller's licence-							
(a) held by a firm, partnership or individual holding a trading (wholesale) or trading (retail) licence, for one person	..	..	..	..	..	..
750							
(b) held by any other firm, partnership or individual for one person	..	..	..	..	..	..	1800
(c) held by every additional employee or partner of a holder of a licence issued under (a) or (b)	..	..	..	..	..	..	300
(4) Hawker's licence	..	..	..	..	..	..	..
150							
(5) Pedlar's licence	..	..	..	..	..	..	..
75							
(6) Pedlar's (restricted) licence	..	..	..	..	..	..	..
15							
(7) Stall licence..	..	..	..	..	..	..	75
(8) Restricted licence	..	..	..	..	..	..	..
75							
(9) Manufacturer's licence	..	..	..	..	..	..	..
1500							
(10) Agent's licence	..	..	..	..	..	..	..
750							
(11) Duplicate of any licence	..	..	..	..	..	..	..
15							

(As amended by Act No. 13 of 1994)

FORM 6
(Regulation 7)

THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF A HAWKER'S, PEDLAR'S, PEDLAR'S
(RESTRICTED),
STALL OR RESTRICTED LICENCE *

* Delete licences not applicable

Part I

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Home address
5. Date of birth
6. National Registration Card No
7. State whether a *Zambian* citizen by-
(i) Birth
- or (ii) Naturalisation Certificate No
- or (iii) Registration Certificate No

Part II

8. Site of stall or premises (*where applicable*)
9. If application is for a hawker's, pedlar's, or pedlar's (restricted) licence state area in which goods are to be sold:

10. Description of goods to be sold from stall

11. I,
a of
hereby declare as follows:

That the information given in this application is true and correct to the best of my knowledge and belief:

Dated the day of, 19

NOTE.-This application shall be accompanied by the appropriate fee.

(See reverse for Schedule of Fees)

SCHEDULE TO THE ACT

LICENCES AND FEES

(Sections 2, 5, 6 and 22)

Fee units

(1) Trading (wholesale) licence	..	..	..	..	..	..
1500							
(2) Trading (retail) licence-							
(a) in a prescribed area	..	..	..	..	..	..	750
(b) in any other area	..	..	..	..	..	..	375
(3) Commercial traveller's licence-							
(a) held by a firm, partnership or individual holding a trading (wholesale) or trading (retail) licence, for one person	..	..	..	..	..	..
750							
(b) held by any other firm, partnership or individual for one person	..	..	..	..	..	..	1800
(c) held by every additional employee or partner of a holder of a licence issued under (a) or (b)	..	..	..	..	..	..	300
(4) Hawker's licence	..	..	..	..	..	..	..
150							
(5) Pedlar's licence	..	..	..	..	..	..	..
75							
(6) Pedlar's (restricted) licence	..	..	..	..	..	..	..
15							
(7) Stall licence..	..	..	..	..	..	..	75
(8) Restricted licence	..	..	..	..	..	..	..
75							
(9) Duplicate of any licence	..	..	..	..	..	..	..
15							
(10) Manufacturers licence..	..	..	..	..	..	..	1500
(11) Agents licence	..	..	..	..	..	..	..
750							

(As amended by Act No. 13 of 1994)

FORM 7
(Regulation 8)

THE TRADERS LICENSING ACT

APPLICATION FOR ISSUE OF A DUPLICATE LICENCE

(Section 22 of the Trades Licensing Act)

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Premises at which business is carried on (*if applicable*):
Stand No Shop/Street No
Name of Street
Town/Village
District
5. I/We apply for the issue of a duplicate of the
Licence No which was issued to me/us on
19
6. State briefly the circumstances under which the licence was lost, destroyed or defaced:
7. The prescribed fee of 15 fee units for a duplicate licence is enclosed.

Dated the day of, 19

Applicant

(As amended by Act No. 13 of 1994)

FORM 8
(Regulation 9)

THE TRADES LICENSING ACT

TRADING (WHOLESALE) LICENCE

No

A trading (wholesale) licence is hereby granted to:

of

trading as

to carry on business as a wholesaler of the following goods or class or classes of goods

on premises at

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a Licensing Authority not later than the 31st October in any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 9
(Regulation 9)

THE TRADES LICENSING ACT

TRADING (RETAIL) LICENCE

No

A trading (retail) licence is hereby granted to:

of

trading as

to carry on business as a retailer of the following goods or class or classes of goods

on the premises at

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a Licensing Authority not later than the 31st October in any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 10
(Regulation 9)

THE TRADES LICENSING ACT

COMMERCIAL TRAVELLER'S LICENCE

No

A commercial traveller's licence is hereby granted to:

of

to carry on business as a commercial traveller.

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a District Secretary not later than the 31st October in any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 11
(Regulation 9)

THE TRADES LICENSING ACT

HAWKER'S LICENCE

No

A licence is hereby granted to:

of

to carry on business as a Hawker in the
Licensing Authority Area.

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a Licensing Authority not later than the 31st October in
any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 12
(Regulation 9)

THE TRADES LICENSING ACT

PEDLAR'S LICENCE

No

A licence is hereby granted to:

of

to carry on business as a Pedlar in the
Licensing Authority Area.

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a Licensing Authority not later than the 31st October in
any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 13
(Regulation 9)
THE TRADES LICENSING ACT

PEDLAR'S (RESTRICTED) LICENCE

No

A licence is hereby granted to:

of

to sell religious books and tracts in the
Licensing Authority Area.

The licensee is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a Licensing Authority not later than the 31st October in
any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 14
(Regulation 9)
THE TRADES LICENSING ACT

STALL LICENCE

No

A licence is hereby granted to:

of

to sell goods from a stall in/at

Description of goods to be sold

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19

(An application may be made to a Licensing Authority not later than the 31st October in any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 15
(Regulation 9)
THE TRADES LICENSING ACT

RESTRICTED LICENCE

No.....

A licence is hereby granted to:

of

to sell tobacco, cigarettes, breadstuffs, pastry, confectionery and non-alcoholic beverages-

(i) on the railway station/airport

(ii) at premises situated in

(Delete section not applicable)

The licence is subject to the following terms and conditions

This licence expires on 31st December, 19.....

(An application may be made to a Licensing Authority not later than the 31st October in any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

FORM 16
(Regulation 10)
REGISTER OF LICENCES

(Section 10 of the Trades Licensing Act)

Licensing Authority

Name and postal address of licence holder	No. of licence	Date of issue	Description of premises covered by licence		Type of licence	Goods permitted to be sold
			Stand/Shop No.	Street		

FORM 17
(Regulation 11)
THE TRADES LICENSING ACT

NOTICE OF OBJECTION TO ISSUE OF A TRADING (WHOLESALE) LICENCE OR
A TRADING (RETAIL) LICENCE

To the Licensing Authority

I,

of

hereby give notice of my objection to the issue of a

licence to

of

The grounds of my objection are

A copy of this notice of objection has been given to the applicant for the licence.

Objector

Date

FORM 18
(Regulation 6A)
THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF A MANUFACTURER'S LICENCE

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Premises at which goods will be manufactured:
Stand No. Street No
Town District
5. Premises at which goods manufactured by applicant will be sold:
Stand No Street No
Town District
6. Description of goods to be manufactured by applicant:

7. I
a of

hereby declare as follows:

That the information given in this application is true and correct to the best of my knowledge and belief.

Dated the day of, 19

Applicant

NOTE.-This application shall be accompanied by the appropriate licence fee of 1000 fee units.

(As amended by S.I. No. 191 of 1971 and Act No. 13 of 1994)

FORM 19
(Regulation 6B)

THE TRADES LICENSING ACT

APPLICATION FOR ISSUE OF AN AGENT'S LICENCE

1. Full name of applicant
2. Postal address
3. Business name (*if any*)
4. Premises at which goods will be sold:
Stand No. Street No.
Town District
5. Type of goods to be sold
6. Names and addresses of foreign companies for which applicant is agent:
7. I,
a of

hereby declare as follows:

That the information given in this application is true and correct to the best of my knowledge and belief.

Dated the day of, 19

Applicant

NOTE.-This application shall be accompanied by the appropriate licence fee of 500 fee units.

(As amended by S.I. No. 191 of 1971 and Act No. 13 of 1994)

FORM 20
(Regulation 9)

THE TRADES LICENSING ACT

MANUFACTURER'S LICENCE

No

A manufacturer's licence is hereby granted to

of

to sell to the Government, wholesalers, retailers or any other person *goods manufactured by him* on premises at

namely (description of those goods).

This licence is subject to the following terms and conditions

This licence expires on the 31st December, 19 (An application may be made to the Licensing Authority not later than 31st October in any year for a licence in respect of the following year.)

Fee units paid.....

Licensing Officer

Date

(As amended by S.I. No. 191 of 1971)

FORM 21
(Regulation 9)

THE TRADES LICENSING ACT

AGENT'S LICENCE

No

An agent's licence is hereby granted to

of

trading as

to carry on business as a manufacturer's representative in respect of the following goods
or classes of goods

on premises at

This licence is subject to the following terms and conditions

This licence expires on the 31st December, 19..... (An application may be made to a
Licensing Authority not later than 31st October in any year for a licence in respect of the
following year.)

Fee units paid.....

Licensing Officer

Date

(As amended by S.I. No. 191 of 1971)

**SECTION 28-THE TRADING (PRESCRIBED GOODS
AND
PROHIBITED GOODS) REGULATIONS**

***Statutory
Instrument
228 of
1971***

Regulations by the Minister

- | | |
|--|---------------------------------|
| 1. These Regulations may be cited as the Trading (Prescribed Goods and Prohibited Goods) Regulations. | Title |
| 2. The goods described in the Schedule, or belonging to any class of goods described therein, are hereby declared to be prescribed goods. | Declaration of prescribed goods |
| 3. All goods other than the goods described in the Schedule, or belonging to any class of goods described therein, are hereby declared to be prohibited goods for the purpose of paragraphs (a) and (b) of subsection (1) of section <i>seventeen</i> of the Act. | Declaration of prohibited goods |

SCHEDULE

(Regulations 2 and 3)

PRESCRIBED GOODS

Educational supplies

Office machinery, stationery, supplies and equipment

Books, newspapers, periodicals

Electrical goods, fittings, apparatus

Pharmaceutical drugs and cosmetics

Motor vehicles, motor-bicycles, bicycles and spares

Tractors, mechanically propelled earth moving equipment

All types of machinery and machinery parts

Flowers and florists' equipment

Funeral furniture and equipment

Medical supplies, furniture and equipment

Musical instruments and supplies

Optical spectacles

Dental plates

Photographs and photographic equipment

Pictures, picture frames, artists' supplies

Scientific instruments and parts

Sewing machines and parts

Pets and pet food

Petrol, oil and lubricants

SECTION 28-THE TRADING (WHOLESALE TRADING) (INVOICES) REGULATIONS

*Statutory
Instrument
365 of
1968*

Regulations by the Minister

- | | |
|---|---|
| <p>1. These Regulations may be cited as the Trading (Wholesale Trading) (Invoices) Regulations.</p> | Title |
| <p>2. Without prejudice to the requirements of any other written law, every wholesaler who sells goods in a wholesale sale shall, at the time of the delivery of such goods to the purchaser, furnish to the purchaser an invoice in respect of such goods containing the following particulars;</p> <ul style="list-style-type: none">(a) the date of the sale;(b) the name and address of the wholesaler;(c) the name and address of the purchaser;(d) the serial number of the licence held by the purchaser; and(e) the quantity, description and purchase price of the goods. | Invoices to be furnished in respect of wholesale transactions |
| <p>3. Every wholesaler shall retain a copy of any invoice required to be furnished under regulation 2 in respect of the sale of goods for a period of not less than twelve months from the date of such sale.</p> | Copies of invoices to be retained |
| <p>4. A police officer of or above the rank of Sub Inspector, or a person authorised in writing in that behalf by a Licensing Authority, may, on production of evidence of his identity and authority to any person reasonably requiring it-</p> <ul style="list-style-type: none">(a) at any reasonable time, enter any premises where goods are being sold by a wholesaler; and(b) require any person in charge of such premises to produce for his inspection copies of invoices required to be retained by such wholesaler under regulation 3. | Powers of inspection |
| <p>5. (1) Any wholesaler who contravenes any of the provisions of regulation 2 or 3 shall be guilty of an offence.</p> | Offences |

(2) Any person who fails to produce any copy of an invoice upon being lawfully required to do so under regulation 4 shall be guilty of an offence.

REGULATIONS MADE UNDER THE BUSINESSES ACT- CHAPTER 199 OF THE 1959 EDITION OF THE LAWS

*(Section 15 of the Interpretation and
General Provisions Act)*

THE HAWKERS' LICENCES REGULATIONS

***Government
Notice
104 of 1958***

1. These Regulations may be cited as the Hawkers' Licences Regulations.
2. A hawker shall not, by virtue of his hawker's licence, trade from any shop, booth, tent or stall.
3. A hawker shall not, by virtue of his hawker's licence, trade within half a kilometre of any store or stall licensed under the Act.

NOTICES MADE UNDER THE TRADES LICENSING ACT

*(Section 15 of the Interpretation and
General Provisions Act)*

PROHIBITION OF PEDDLING AND HAWKING

Peddling of goods is hereby prohibited within one and a half kilometres of the Luapula Valley Road between the Luongo River and the Kalungwishu River.

***Government
Notice
53 of 1960***

Hawking of goods by way of retail is hereby prohibited within one and a

Government

half kilometres of the Luapula Valley Road between the Luongo River and the Kalungwishi River.

Notice
22 of 1960

NOTICES MADE UNDER THE TRADES LICENSING ACT

*(Section 15 of the Interpretation
and General Provisions Act)*

EXEMPTION OF SPECIFIED BUSINESSES

The Railway Staff Canteen, Ndola, is hereby exempted from the provisions of section *three* of the Act, subject to the following conditions:

Government
Notice
292 of 1958

(a) that articles sold shall be restricted to cooked food for consumption on the premises and sundry supplies including beverages and tobacco;

(b) that the sales be restricted to employees of the Railways engaged in transportation and ancillary services.

The Ndola Railway Workers' Co-operative Society Limited, Ndola, is hereby exempted from the provisions of section *three* of the Act, subject to the following conditions:

Government
Notice
293 of 1958

(a) that the sales be restricted to employees of the Railways and their families;

(b) that the premises (building No. 1411) are open daily from 10 a.m. to 12 noon and from 3 p.m. to 5 p.m. on weekdays.

The Prison Co-operative Dry Canteen Limited, Bwana Mkubwa, is hereby exempted from the provisions of section *three* of the Act, subject to the following conditions:

Government
Notice
294 of 1958

(a) that the sales be restricted to the Prison Service personnel and their families;

(b) that the premises are open daily from 10 a.m. to 12 noon and from 3 p.m. to 5 p.m. on weekdays.

All persons selling goods by way of business or carrying on the business of general dealer at St. George's "Bring-and-Buy Centre", situate in

Government
Notice

Johnston's Arcade, Zenobia Avenue, Luanshya, are hereby exempted from the provisions of section *three* of the Act, subject to the following conditions: 295 of 1958

- (a) that the articles, goods, work or foodstuffs sold shall be-
 - (i) home-made and donated to the aforesaid Centre by the makers thereof; or
 - (ii) second-hand and donated to the aforesaid Centre;
- (b) that all profits and proceeds accruing from the carrying on of the said business shall be used for the benefit and purposes of St. George's Church, Luanshya.

Schools established under the Education Act are hereby exempted from the provisions of section *three* of the Act when conducting tuck shops on school premises, subject to the following conditions: *Government Notice 29 of 1959. Cap. 134*

- (a) that articles sold shall be restricted to foodstuffs, beverages, stationery articles normally used in educational institutions, and small items of uniform, such as ties, badges, hat bands and belts;
- (b) that the sales are restricted to pupils of the schools, and to the staff employed at the schools;
- (c) that the tuck shops be not opened for more than eight hours in any one week during term time, and shall be closed entirely during school holidays and on all public holidays;
- (d) that the shops are conducted in connection with the raising of funds for educational purposes.

The Copperbelt Technical Foundation Limited is hereby exempted from the provisions of section *three* of the Act when conducting shops at the teaching centres situated at Stand No. 1195, Chingola, Part of Farm No. 1591, Kitwe, Stand No. 1312, Luanshya, and Stand No. 748, Mufulira, subject to the following conditions: *Government Notice 62 of 1959*

- (a) that articles sold shall be restricted to foodstuffs, beverages, stationery articles normally used in educational institutions engaged in technical and adult education and small items of uniform such as ties, badges, hat bands and belts;
- (b) that the sales are restricted to pupils of the schools, and to the staff employed at the schools;
- (c) that the shops be not opened for more than twelve hours in any

one week during term time, and shall be closed entirely during academic holidays and on all public holidays;

(d) that the shops are conducted in connection with the raising of funds for educational purposes.

The Board of the Livingstone Museum is hereby exempted from the provisions of section *three* of the Act, subject to the condition that articles sold by or on behalf of the Board be restricted to duplicate objects belonging to the Museum and post cards, colour transparencies and souvenirs specially produced for the Museum.

NOTICES MADE UNDER THE TRADES LICENSING ACT-

(Section 15 of the Interpretation and General Provisions Act)

EXEMPTION OF SPECIFIED BUSINESSES

Agents of the United Society for Christian Literature, Lusaka and Kitwe, engaged in the sale within rural council areas of books of a religious or educational nature supplied by the Society are hereby exempted from the provisions of section *three* of the Act.

*Government
Notice
6 of 1961*

The Kitwe office of "The Bible Societies in Zambia and Malawi" is hereby exempted from the provisions of section *three* of the Act for so long as such organisation engages only in the sale of the Scriptures, the selling prices of which do not exceed the costs of production.

*Government
Notice
259 of 1961*

All grain-buying field depots of the Southern Province Co-operative Marketing Union Limited, situated in the Kalomo and Choma Districts, are hereby exempted from the provisions of section *three* of the Act in respect of the sale of fertiliser and scotch carts only.

*Government
Notice
332 of 1961*

The London Missionary Society's Mbereshi Bookroom at Kawambwa is hereby exempted from the provisions of section *three* of the Act for so long as sales from the said bookroom and through its agents are confined to Bibles, portions of the Scriptures and books of a religious or educational nature, on a non-profit-making basis.

*Government
Notice
79 of 1962*

The Principal of the Monze Agricultural Training Centre is hereby exempted from the provisions of section *three* of the Act when conducting a tuck shop on the premises, subject to the following conditions.

*Government
Notice
99 of 1962*

- (a) that articles sold shall be restricted to toilet articles, confectionery, groceries and tobacco;
- (b) that the sales are restricted to students of the Centre and to the staff employed at the Centre;
- (c) that the tuck shop be not opened for more than four hours in any one week.

The Rhokana Corporation Limited is hereby exempted from the provisions of section *three* of the Act in respect of its Welfare Workshop situated in Market Road in Wusikili, Nkana Mine Township.

*Government
Notice
194 of 1963*

The store of the United Church of Zambia, situated within the Kawimbe Leprosy Settlement, Mbala District, is hereby exempted from the provisions of section *three* of the Act, subject to the following conditions:

*Statutory
Instrument
26 of 1964*

- (a) that the sales be restricted to patients at the Settlement and employees of the United Church of Zambia working within the Settlement and their families;
- (b) that all profits and proceeds accruing from the carrying on of the said business shall be used for the benefit and purposes of the Kawimbe Leprosy Settlement.

The Tuck Shop, the Helen Girls' Camp, situated in the Chingola District, is hereby exempted from the provisions of section *three* of the Act, subject to the following conditions:

*Statutory
Instrument
272 of 1965*

- (a) that articles sold shall be limited to foodstuffs, beverages, haberdashery, stationery items and toilet requisites;
- (b) that the sales are restricted to camp residents and to staff employed at the camp;
- (c) that the tuck shop be not opened for more than eight hours in any one week and shall be closed entirely during camp vacations and on all public holidays; and
- (d) that the tuck shop is conducted in connection with the raising of funds for cultural and educational purposes.

The Tuck Shop, Natural Resources Development College, situated in the Lusaka District, is hereby exempted from the provisions of section *three* of the Act, subject to the following conditions: *Statutory Instrument 308 of 1965*

- (a) that articles sold shall be limited to beverages, confectionery, foodstuffs, tobacco and toilet requisites, stationery items normally used in educational institutions and small items of uniform, such as badges, belts, hat bands and ties;
- (b) that the sales are restricted to pupils of the college and to the staff employed at the college;
- (c) that the tuck shop be not opened for more than eight hours in any one week during term time and shall be closed entirely during college holidays and on all public holidays; and
- (d) that the tuck shop is conducted in connection with the raising of funds for educational purposes.

The Kawama Bookroom of the Christian Mission in Many Lands, situated in the Kawambwa District, is hereby exempted from the provisions of section *three* of the Act for so long as sales from that Bookroom and through its agents are confined to Bibles, portions of the Scriptures and books of a religious or educational nature, on a non-profit-making basis. *Statutory Instrument 174 of 1966*

The Presbyterian Church Board Management, operating from the Presbyterian Manse, Jameson Road, Livingstone, Southern Province, is hereby exempted from the provisions of section *three* of the Act for so long as the sales from that Board of Management are confined to books and literature of a purely religious nature, on a non-profit-making basis. *Statutory Instrument 242 of 1966*

The Scripture Union, operating from Kitwe, Copperbelt Province, is hereby exempted from the provisions of section *three* of the Act for so long as the sales from that Scripture Union are confined to books and literature of a purely religious nature, on a non-profit-making basis. *Statutory Instrument 293 of 1967*

The Africa Evangelical Fellowship, operating from Kitwe, Copperbelt Province, is hereby exempted from the provisions of section *three* of the Act for so long as the sales of the said Africa Evangelical Fellowship are confined to books and literature of a purely religious nature, on a non-profit-making basis. *Statutory Instrument 323 of 1967*

The Zambia Catholic Bookshop at Ndola, Copperbelt Province, is hereby exempted from the provisions of section *three* of the Act for so long as the sales of the said Zambia Catholic Bookshop are confined to books and portions of the literature of a purely religious nature, on a non-profit-making basis.

Statutory Instrument
130 of 1968

CHAPTER 394 THE ZAMBIA NATIONAL TENDER BOARD ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

ZAMBIA NATIONAL TENDER BOARD

3. Establishment of Board
4. Composition of Board
5. Tenure of office and vacancies
6. Remuneration and allowances of members
7. Functions of Board
8. Committees of Board
9. Disclosure of interest
10. Immunity of members
11. Procedure and meetings
12. Seal of Board
13. Prohibition of publication or disclosure of information to unauthorised persons

PART III

ADMINISTRATION

14. Appointment of Director
15. Secretary and other staff
16. Inspectorate unit
17. Powers of inspectors, etc.
18. Failure to comply with prescribed procedures
19. Surcharge and appeals
20. Payment and recovery of surcharge
21. Resisting or obstructing inspector, etc.

PART IV

FINANCIAL AND OTHER PROVISIONS

Section

22. Funds of Board
23. Financial year
24. Books of accounts
25. Audit of accounts
26. Annual report
27. Regulations

CHAPTER 394

ZAMBIA NATIONAL TENDER BOARD

Act No.
30 of 1982
13 of 1994

An Act to provide for the establishment of the Zambia National Tender Board; to regulate and control the procurement of goods and services for the Government and parastatal bodies; to consolidate the law relating to tenders generally; and to provide for matters connected with or incidental to the foregoing.

[3rd August, 1990]

PART I

PRELIMINARY

1. This Act may be cited as the Zambia National Tender Board Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Board" means the Zambia National Tender Board established by section *three*;

"Chairman" means the Chairman of the Board appointed under section *four*;

"company" means a company registered under the Companies Act; Cap. 388

"Director" means the Director of the Board appointed under section *fourteen*;

"member" means a member of the Board;

"parastatal body" means a statutory corporation or body, or a company in which the Government has a majority or controlling interest, and includes a local authority;

"Secretary" means the person appointed under section *fifteen* to be Secretary to the Board.

PART II

ZAMBIA NATIONAL TENDER BOARD

3. There is hereby established the Zambia National Tender Board which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the provisions of this Act, to do all such acts and things as a body corporate may do by law. Establishment of Board

4. (1) The Board shall consist of a Chairman and twelve other members of whom the following shall be *ex-officio* members- Composition of Board

- (a) the Secretary to the Cabinet;
- (b) the Director-General of the Zambia Industrial and Mining Corporation Limited;
- (c) the Chairman of the Zambia Consolidated Copper Mines Limited;
- (d) the Governor of the Bank of Zambia;
- (e) the Permanent Secretary in the Ministry responsible for finance;
- (f) the Permanent Secretary in the Ministry responsible for development planning; and
- (g) the Permanent Secretary in the Ministry responsible for works and supply.

(2) The Chairman and the other members, other than the *ex-officio* members, shall be appointed by the President.

(3) Where an *ex-officio* member is for any reasonable cause unable to attend any meeting of the Board, he may, in writing, nominate another senior official from his organisation to attend such meeting in his stead and the person so nominated shall be deemed to be a member for the purpose of such meeting.

5. (1) The provisions of this section shall apply to members other than the *ex-officio* members. Tenure of office and vacancies

(2) Subject to the provisions of this section, a member shall hold office for a period of two years:

Provided that a retiring member may be reappointed.

(3) Upon the expiry of the period for which a member is appointed, he shall continue to hold office until his successor has been appointed, but in no case shall such further period exceed three months.

(4) A member shall cease to hold office-

(a) subject to subsection (3), upon the expiry of the period for which he is appointed or reappointed;

(b) if he is adjudged or otherwise declared to be of unsound mind;

(c) if he is adjudged or otherwise declared to be bankrupt;

(d) if he is lawfully detained or his freedom of movement is restricted under any law in force in Zambia;

(e) if he is sentenced to a term of imprisonment exceeding six months;

(f) if he is absent from three consecutive meetings of the Board without reasonable cause;

(g) upon the expiry of not less than one month's notice in writing of his intention to resign given by him to the Chairman;

(h) if he is removed by the President.

6. A member other than a public officer or an employee of a parastatal body shall be paid such remuneration or allowance as the Minister may from time to time determine. Remuneration and allowances of members

7. (1) The functions of the Board shall be to regulate and control the procurement of goods and services for the Government and parastatal bodies. Functions of Board

(2) Without prejudice to the generality of subsection (1), the Board may-

(a) formulate rules and regulations governing the procurement of goods and services for the Government and parastatal bodies;

(b) advertise locally and abroad tenders for the procurement of goods and services for the Government and parastatal bodies;

(c) regulate the procedures relating to the award of contracts on behalf of the Government and parastatal bodies;

(d) formulate the conditions under which any rules and regulations governing the procurement of goods and services for the Government and parastatal bodies may be varied or waived.

8. (1) The Board may, for the purpose of carrying out its functions under this Act, establish committees and delegate to any such committee such of its functions as it may think fit. Committees of Board

(2) The Board may appoint as members of a committee established under subsection (1), persons who are or are not members of the Board and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Board, any committee established under subsection (1) may regulate its own procedure.

9. (1) If a person is present at a meeting of the Board or any committee of the Board at which any matter is the subject of consideration and in which matter such person or his spouse is directly or indirectly interested in a private capacity, he shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on any question touching upon, such matter. Disclosure of interest

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

10. No action or other proceedings shall lie or be instituted against any Immunity of

person for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his functions under this Act. members

11. (1) The Board shall regulate its own procedure and the validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or by any defect in the appointment of any member or by reason that any person not entitled so to do took part in the proceedings. Procedure and meetings

(2) For the transaction of its business, the Board shall meet at such places and at such times, being not less than once every three months, as the Chairman may determine.

(3) At any meeting of the Board, one-half of the members holding office at that time shall form a quorum.

(4) There shall preside at every meeting of the Board the Chairman or in the absence of the Chairman such member as the members present may elect for the purpose of that meeting.

(5) A decision of the Board on any question shall be by a majority of the members present and voting at a meeting of the Board and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his deliberative vote.

(6) Notwithstanding the provisions of subsection (5), a decision may be made by the Board on any urgent matter by the circulation of the relevant papers among the members, and by the expression in writing of the views of the majority thereof:

Provided that any member shall be entitled to require that any decision shall be deferred until the matter is considered at a meeting of the Board.

(7) The Board may invite any person, whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Board but such person shall have no vote.

(8) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and of every meeting of any committee established by the Board.

12. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept by the Secretary. Seal of Board

(2) The Board may use a wafer or rubber stamp *in lieu* of the seal.

(3) The affixing of the seal of the Board shall be authenticated by the Chairman and the Secretary, or by the Chairman and one other person authorised in that behalf by a resolution of the Board.

(4) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Secretary or any other person authorised in that behalf by a resolution of the Board.

(5) Any document purporting to be a document under the seal of the Board or issued on behalf of the Board shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

13. (1) No person shall, without the consent in writing given by or on behalf of the Board, publish or disclose to any person, otherwise than in the course of his duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of, his duties under this Act. Prohibition of publication or disclosure of information to unauthorised persons

(2) Any person who knowingly contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having information which to his knowledge has been published or disclosed in contravention of the provisions of subsection

(1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding twelve thousand five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.

(As amended by Act No. 13 of 1994)

PART III

ADMINISTRATION

14. (1) The President shall appoint, on such terms and conditions as he thinks fit, a Director who shall be the chief executive officer of the Board. Appointment of Director

(2) The office of Director shall be an office in the public service.

(3) The Director shall attend all meetings of the Board, and shall be entitled to address such meetings, but shall not vote on any matter under discussion:

Provided that the Board may, for good cause, request the Director to withdraw from any meeting of the Board.

15. (1) There shall be a Secretary to the Board who shall be appointed by the Board on such terms and conditions as the Board may determine. Secretary and other staff

(2) The Secretary shall be responsible for the administration of the day-to-day affairs of the Board under the general supervision of the Director.

(3) The Board may appoint, on such terms and conditions as it may determine, such other staff as it may consider necessary for the performance of its functions under this Act.

16. (1) In order to ensure due compliance with the provisions of this Inspectorate

Act, the Board shall establish under the general supervision of the unit
Director an inspectorate unit which shall monitor, in accordance with
the rules or regulations made under this Act, all contracts placed by the
Board, any committee established by the Board, any Government
Department or any parastatal body.

(2) The Board may appoint such inspectors and other staff to the
inspectorate unit as may be necessary for the performance of its
functions under this Act.

17. In the performance of his duties under this Act, any inspector or Powers of
member of staff of the inspectorate unit shall have- inspectors, etc.

- (a) access to all books, records, returns, reports and other documents
relating to the work of any Government Department or parastatal body
which is under inspection;
- (b) access at all reasonable times to the premises of any Government
Department or parastatal body which is under inspection;
- (c) power to call for any relevant information from persons
responsible for the financial administration of any Government
Department or parastatal body which is under inspection:

Provided that no inspector or member of staff of the inspectorate unit
shall have access to any books, records, returns, reports or other
documents, or to any premises if-

- (a) such books, records, returns, reports, other documents or
premises belong to any component of the Defence Force or the Zambia
Security Intelligence Service; or
- (b) such access is likely to-
 - (i) prejudice the security, defence or international relations of the
Republic or the investigation or detection of offences; or
 - (ii) involve the disclosure of any matters or deliberations of a secret
or confidential nature of the Cabinet or of any sub-committee of the
Cabinet.

18. (1) Notwithstanding anything to the contrary contained in any Failure to
written law, where any expenditure is to be incurred on any procurement comply with
of goods or services, it shall be the duty- prescribed

procedures

(a) in respect of a head of expenditure, of the controlling officer designated as such for that head of expenditure under section *four* of the Finance (Control and Management) Act; or

Cap. 347

(b) in respect of a parastatal body, of the chief executive officer of that parastatal body;

to ensure that such procurement of goods or services is in accordance with the procedures prescribed by or under this Act.

(2) Subject to the provisions of subsection (3), every controlling officer and chief executive officer shall be accountable for failing to comply with the provisions of subsection (1).

(3) Where a controlling officer or chief executive officer satisfies the Board that he had, in accordance with the provisions of any rules or regulations made under this Act, delegated his functions under subsection (1) to any other person or committee, then such other person or every member of such committee shall also be accountable for any failure to comply with the provisions of subsection (1).

(4) Where a controlling officer or chief executive officer satisfies the Board that he is, under the provisions of any written law, subject to the control or direction of any other person, board, committee or other body, and that it was such control or direction of such other person, board, committee or other body which caused the failure to comply with the provisions of subsection (1), then such other person or every member of such board, committee or other body shall also be accountable for such failure to comply with the provisions of subsection (1).

(5) In respect of any failure to comply with the provisions of subsection (1), the Board may take such appropriate corrective or punitive measures as it may consider necessary.

19. (1) Where the Board is satisfied that an employee of the Government or parastatal body has caused financial loss by his recklessness, misconduct or wilful default to follow procedures laid down in this Act or in any regulations made thereunder, the Board shall afford such person a reasonable opportunity to furnish a written

Surcharge and
appeals

explanation as to why he should not be surcharged with the amount of such loss.

(2) After considering any explanation furnished under subsection (1), the Board may surcharge such person with the amount of such loss or any part thereof, and certify in writing to that effect.

(3) Any person aggrieved by a decision of the Board made under subsection (2) may, where the amount of surcharge is in excess of K1,000, appeal against such decision to the High Court or to a subordinate court of competent jurisdiction.

(4) The High Court or subordinate court, as the case may be, may, upon determining any appeal lodged under subsection (3)-

(a) confirm, vary or quash the decision of the Board;

(b) remit the case to the Board with such directions as it thinks fit for giving effect to the decision on appeal;

(c) make such other order as to costs or otherwise as may seem just.

(5) The Chief Justice may, by statutory instrument, make rules providing for the period within which appeals under this section may be brought and otherwise regulating such appeals.

20. (1) The amount of every surcharge certified in accordance with subsection (4) shall become due and recoverable from the emoluments or other financial benefits of such employee within thirty days after a copy of the certificate has been furnished to him or, if an appeal with respect to the surcharge has been lodged, within thirty days after the appeal is finally disposed of or abandoned or fails by non-prosecution thereof, as the case may be.

Payment and
recovery of
surcharge

(2) The Board may authorise the payment of a surcharge in instalments:

Provided that if default is made in the payment of any instalment, the balance of the surcharge outstanding shall thereupon become payable in

full.

(3) The amount of any surcharge which is not paid shall be recoverable by the Board as a civil debt.

(4) Unless the contrary is proved, in any proceedings for the recovery of the amount of a surcharge, a certificate issued by the Board shall be conclusive evidence of the facts certified therein, and a certificate signed by the Secretary that the sum certified to be due has not been paid to him shall be conclusive evidence of non-payment.

21. Any person who assaults, resists or obstructs any inspector or member of staff of the inspectorate unit in the exercise of his powers of access or power to call for relevant information under this Act shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Resisting or obstructing inspector, etc.

(As amended by Act No. 13 of 1994)

PART IV

FINANCIAL AND OTHER PROVISIONS

22. (1) The funds of the Board shall consist of such moneys as may- Funds of Board

(a) be appropriated by Parliament for the purposes of the Board;

(b) vest in or accrue to the Board.

(2) The Board may-

(a) subject to the approval of the Minister, raise by way of loans or otherwise, such moneys as it may require for the performance of its functions;

(b) charge and collect fees on tender and other related documents;

(c) levy fees and other charges for services provided by the Board.

(3) There shall be paid from the funds of the Board-

(a) the salaries, allowances and loans of the staff of the Board;

(b) such reasonable travelling, transport and subsistence allowance for members or members of any committee of the Board when engaged on the business of the Board, at such rates as the Board may determine; and

(c) any other expenses incurred by the Board in the performance of its functions.

(4) The Board may invest in such manner as it thinks fit such of its funds as it does not immediately require for the performance of its functions.

23. The financial year of the Board shall be the period of twelve months ending on the 31st December in each year. Financial year

24. (1) The Board shall keep proper books of accounts and other records relating to its accounts. Books of accounts

(2) Such books of accounts and other records shall be open for inspection by the Minister or any person duly authorised by him in that behalf.

25. (1) The accounts of the Board shall be audited annually and a detailed report thereon submitted to the Minister and to the Board. Audit of accounts

(2) For the performance of his duties under subsection (1), the auditor to the Board shall have access at all reasonable times to all books of accounts, records, returns, reports and other documents relating to the Board's accounts.

(3) In respect of each financial year, the auditor to the Board shall

certify whether or not-

(a) he has received all the explanations and other information necessary for the performance of his duties;

(b) the accounts of the Board have been properly kept; and

(c) according to the explanations and other information received, and the books of accounts, records, returns, reports and other documents relating to the Board's accounts produced to him, the accounts of the Board reflect a true and accurate financial position of the Board or of its profit and loss position, for the period covered by his certification.

26. (1) As soon as is practicable, but not later than six months after the expiry of each financial year, the Board shall submit to the Minister a report containing a balance sheet showing the assets and liabilities of the Board as at the last day of the financial year to which the report relates, accompanied by an income and expenditure account for that financial year, together with all supporting statements and returns duly certified by the auditor to the Board. Annual report

(2) The Minister may at any time request the Board in writing to submit to him such other reports, returns or statements, duly certified by the auditor to the Board as he may consider necessary, and the Board shall comply with such request.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1) lay it before the National Assembly.

27. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act. Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may, on the recommendation of the Board, make rules or regulations prescribing any matter which the Board is authorised by this Act to formulate, regulate or prescribe.

(3) Rules or regulations made under this Act may provide in respect of

any contravention thereof that the offender shall be liable to a fine not exceeding twenty five thousand penalty units or to a term of imprisonment not exceeding ten years, or to both.

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

ZAMBIA NATIONAL TENDER BOARD THE TENDER REGULATIONS [ARRANGEMENT OF REGULATION]

PART I

PRELIMINARY

Regulation

1. Title
2. Interpretation

PART II

CENTRAL TENDER COMMITTEE

3. Establishment of Central Tender Committee
4. Composition of Central Tender Committee
5. Functions of Central Tender Committee
6. Proceedings of Central Tender Committee

PART III

PROVINCIAL TENDER COMMITTEES

7. Establishment of provincial tender committees
8. Composition of provincial tender committees

9. Functions of provincial tender committees
10. Proceedings of provincial tender committees

PART IV

PARASTATAL TENDER COMMITTEES

11. Establishment of parastatal tender committees
12. Small parastatal bodies
13. Composition of parastatal tender committees
14. Functions of parastatal tender committees
15. Proceedings of parastatal tender committees

PART V

MINISTRY TENDER COMMITTEES

Regulation

16. Establishment of ministry tender committees
17. Composition of ministry tender committees
18. Functions of ministry tender committees
19. Proceedings of ministry tender committees
20. Procedure where tender committee not established in terms of part III and V
21. Tender proceedings not to apply to controlled goods, services purchased at official price, etc.
22. Board to settle disputes
23. Delegation to other persons

PART VI

FINANCIAL LIMITS FOR GOVERNMENT PURCHASES

- 24. Financial limits for Government purchases
- 25. Perishable or fragile goods
- 26. Special equipment
- 27. Purchase from Government Stores Department
- 28. Running contracts at fixed prices

PART VII

FINANCIAL LIMITS OF PARASTATAL PURCHASES

- 29. Application of procurement limits in parastatal bodies
- 30. Perishable or fragile goods

PART VIII

GENERAL PROVISIONS FOR GOVERNMENT AND PARASTATAL BODIES

- 31. Formal tenders
- 32. Documents for formal tenders
- 33. Numbering of tenders
- 34. Date of submission of tenders
- 35. Reduced time limit
- 36. Extended time limit
- 37. Late tenders
- Regulation
- 38. Withdrawal of tenders

39. Procedure, etc., on opening of tenders
40. Tender documents
41. Tenders evaluation
42. Special formal tenders
43. Informal tenders
44. Tender samples
45. Proprietary articles as samples
46. Tender committee sample materials
47. Product specifications
48. Financing of works contract
49. Correspondence upon errors
50. Notification to successful tenderer
51. Non-anticipation of tenders
52. Amendment, alteration or substitution of samples, etc.
53. Price adjustment formulae
54. Invoices, etc.
55. Signing of contract
56. Letter of intent etc.
57. Tenders relating to public security
58. Disposing of contract documents
59. Variation in quantities
60. Inspection of goods delivered
61. General conditions of contracts
62. Offences and penalties relating to tender documents
63. Tenders to be invited and approved only by board
64. Spent

PART IX

OFFENCES AND PENALTIES

FIRST SCHEDULE-Tender Forms

SECOND SCHEDULE-Withdrawal of Tenders

THIRD SCHEDULE-Non-Refundable Tender Document Charges

FOURTH SCHEDULE

PART I-Tender Security Form

PART II-Performance Security Form

SECTION 27-THE TENDER REGULATIONS
Regulations by the Minister

*Statutory
Instrument
151 of 1995
132 of 1996*

PART I

PRELIMINARY

1. These Regulations may be cited as the Tender Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"Board Secretary" means the Secretary to the Board appointed under section *fifteen* of the Act;

"Central Tender Committee" means the Central Tender Committee established by regulation 3;

"Controlled price" means a price of a commodity or service which is prescribed under the Control of Goods Act;

Cap. 421

"Controlling Officer" shall have the meaning assigned to it under section *two* of the Finance (Control and Management) Act;

Cap. 347

"formal tender" means a tender which is advertised in the *Gazette*;

"informal tender" means a tender which is not advertised in the *Gazette*, but for which competitive quotations have been obtained;

"non-responsive offer" means an offer whose contents do not conform with what is required in a tender document;

"parastatal body" means any company, management board, association or statutory body in which the Government has a majority or controlling interest and includes a city, a municipality or a district council established under the Local Government Act; Cap. 281

"purchasing officer" means any officer whose responsibility it is to sign an order for the purchase of any goods or the supply of any service;

"official price" means the price of a commodity or service approved by the Central Tender Committee in a running contract;

"running contract" means a contract extending over a period of time for an estimated or variable quantity of goods or services;

"supplies officer" means any person appointed as such by the Board under section *fifteen* of the Act;

"tender committee" means a tender committee established by regulation 3, 7, 11 or 16;

"ZCCM" means the Zambia Consolidated Copper Mines Limited, a company registered under the Companies Act; Cap. 388

PART II

CENTRAL TENDER COMMITTEE

3. There is hereby established the Central Tender Committee, in Lusaka, which shall perform such functions of the Board as are set out in these Regulations. Establishment of Central Tender Committee

4. (1) The Central Tender Committee shall consist of the following members:

Composition of
Central Tender
Committee

- (a) the Permanent Secretary responsible for finance, who shall be the Chairman;
- (b) the Deputy Secretary to the Cabinet;
- (c) the Permanent Secretary responsible for works and supply;
- (d) the Permanent Secretary responsible for development planning;
- (e) the Director, Zambia National Tender Board;
- (f) the Managing Director, Zambia State Insurance Corporation Limited;
- (g) the Managing Director, Zambia Electricity Supply Corporation Limited;
- (h) the General Manager, Bank of Zambia;
- (i) the Company Secretary, ZCCM;
- (j) the Secretary, Zambia National Tender Board.

(2) There shall be a Vice-Chairman who shall be elected by the Central Tender Committee.

5. (1) The functions of the Central Tender Committee shall be to examine and authorise all procurement of goods, works and services for both Government and parastatal bodies whose value is above the limits authorised in these regulations for tender committees established by regulation 7, 11 or 16.

Functions of
Central Tender
Committee

(2) Without prejudice to the generality of sub-regulation (1) the functions of the Central Tender Committee shall be to-

- (a) invite and award running contracts on common user goods or services;
- (b) examine and authorise the variation of tender procedures for the tender committees established under these Regulations;
- (c) undertake and regulate registration of suppliers of goods, works and services.

6. (1) Except as otherwise provided for in these Regulations, the Central Tender Committee shall determine its own procedure.

Proceedings of
Central Tender
Committee

(2) The Central Tender Committee shall meet at such times and such places being not less than once in a month as the Chairman may determine.

(3) The Central Tender Committee shall cause minutes to be kept of the proceedings of every meeting and such minutes shall be transmitted to the Board as soon as practicable after the meeting at which they are confirmed.

(4) The Central Tender Committee may establish sub-committees and may appoint as members of such sub-committees, persons who are, or are not, members of the Central Tender Committee for any specific matter.

PART III

PROVINCIAL TENDER COMMITTEES

7. There is hereby established, in each province, a provincial tender committee for the procurement of goods, works and services in respect of provincial heads of expenditure falling under controlling officers

Establishment
of provincial
tender

designated as such in terms of section *four* of the Finance (Control and Management) Act. committees
Cap. 347

8. (1) A provincial tender committee shall consist of the following members: Composition of
provincial
tender
committees

(a) the Permanent Secretary for the Province, who shall be
Chairman;

(b) The Deputy Permanent Secretary for the Province, who shall be
Vice-Chairman;

(c) the head of the Provincial Accounting Unit;

(d) the Provincial Agricultural Officer;

(e) the Provincial Commissioner of Works;

(f) the Provincial Education Officer;

(g) the Provincial Marketing and Co-operative Officer;

(h) the Provincial Medical Officer; and

(i) two other members, other than civil servants, who are ordinarily
resident in the province and who shall be appointed by the Board for a
period not exceeding two years.

(2) The Supplies Officer, shall be appointed Secretary of the tender
committee.

9. (1) The functions of a provincial tender committee shall be to invite
and accept tenders relating to the procurement of goods, works and
services for the Government within the limits provided for in Part VI. Functions of
provincial
tender
committees

(2) Without prejudice to the generality of sub-regulation (1), a

provincial tender committee shall within limits provided for in Part VI of these Regulations invite and award running contracts on foodstuffs to be supplied to Government institutions whose expenditure heads fall under the control of the Provincial Permanent Secretaries.

(3) A provincial tender committee shall perform its functions in accordance with the provisions of Part VI and VIII.

10. (1) Except as provided for in these Regulations, a provincial tender committee shall determine its own procedure.

Proceedings of
provincial
tender
committees

(2) A provincial tender committee-

(a) shall meet at such times and such places being not less than once in a month as the Chairman may determine;

(b) shall cause minutes to be kept of the proceedings of every meeting and such minutes shall be transmitted to the Board as soon as practicable after the meeting at which they are confirmed; and

(c) may establish sub-committees and appoint as members, of such sub-committees persons who are, or are not, members of the provincial tender committee for the purpose of advising the committee on any specific matter.

PART IV

PARASTATAL TENDER COMMITTEES

11. There is hereby established in the governing body of every parastatal body a parastatal tender committee.

Establishment
of parastatal
tender
committees

12. Notwithstanding regulation 11, where the physical structure of a particular parastatal body is too small to be able to constitute a tender committee in accordance with these Regulations, the Board shall prescribe the procedures to be followed by such a parastatal body.

Small parastatal
bodies

13. (1) A city or municipal council tender committee shall consist of the following members;

Composition of
parastatal
tender
committees

- (a) The Town Clerk, who shall be Chairman;
- (b) the Director of Administration, who shall be Vice-Chairman;
- (c) the Director of Finance;
- (d) the Director of Engineering;
- (e) the Director of Housing and Social Services;
- (f) the Director of Legal Services;
- (g) the Director of Public Health; and
- (h) two other members, other than members of the council, who are ordinarily, resident in the district, and who shall be appointed by the Board for a period of two years.

(2) The head of the section responsible for purchasing and supply in the council shall be appointed by the Secretary of the tender committee.

(3) A district council tender committee shall consist of the following members:

- (a) the District Executive Secretary, who shall be the Chairman;
- (b) the Deputy District Executive Secretary, who shall be the Vice-Chairman;

- (c) the Treasurer;
- (d) the Director of Works;
- (e) the District Education Officer;
- (f) the District Agricultural Officer,
- (g) the head of the District Co-operative Union;
- (h) one representative of the Security Forces; and
- (i) the Administrative Officer, who shall be the Secretary.

(4) The tender committees for parastatal bodies other than councils established under the Local Government Act shall consist of eight members appointed by the Board on the recommendations of the appropriate chief executives, three of whom shall be from outside the parastatal body.

Cap. 281

(5) The chief executive of a parastatal body shall appoint the chairman of a tender committee established under sub-regulation (3).

(6) The vice-chairman of a tender committee established under sub-regulation (3) shall be appointed by the members of the tender committee.

14. (1) The functions of a parastatal tender committee shall be to invite tenders and authorise procurement of goods, works and services within the limits specified in Part VIII:

Functions of
parastatal
tender
committees

Provided that operating expenditure on goods and services which are not of a capital nature shall not be subject to the limits specified in Part VIII.

(2) Without prejudice to the generality of sub-regulation (1), a

parastatal tender committee shall-

- (a) invite and award running contracts; and
- (b) examine and approve the variation of tender procedures.

(3) A parastatal tender committee shall perform its functions in accordance with the provisions of Part VIII and IX.

15. (1) Except as provided for in these Regulations a parastatal tender committee shall determine its own procedure.

Proceedings of
parastatal
tender
committees

(2) A parastatal tender committee shall meet at such times and places being not less than once in a month as the Chairman may determine.

(3) A parastatal tender committee may establish sub-committees which shall consist of persons who are, or are not, members of the committee for the purpose of advising the committee on any specific matter.

(4) A parastatal tender committee shall cause minutes to be kept of the proceedings of every meeting and such minutes shall be transmitted to the Board as soon as practicable after the meeting at which they are confirmed.

PART V

MINISTRY TENDER COMMITTEES

16. There is hereby established in each ministry of Government a tender committee for the procurement of goods and services.

Establishment
of ministry
tender
committees

17. A ministry tender committee shall consist of-

Composition of
ministry tender
committees

- (a) the controlling officer, who shall be the Chairman;
- (b) an officer of at least deputy permanent secretary rank, who shall be Vice-Chairman;
- (c) the Head of the accounting unit;
- (d) the Head of the procurement unit;
- (e) the Heads of Departments; and
- (f) a senior supplies officer, who shall be the Secretary.

18. (1) The functions of a ministry tender committee shall be to invite and accept tenders relating to the procurement of goods and services for its ministry within the limits provided for in Part VI.

Functions of
ministry tender
committees

(2) A ministry tender committee shall perform its functions in accordance with Part VI and Part IX.

19. (1) Except as otherwise provided for in these Regulations, a ministry tender committee shall determine its own procedure.

Proceedings of
ministry tender
committee

(2) A ministry tender committee shall meet at such times and such places as the Chairman may determine, but not less than once a month.

(3) A ministry tender committee shall cause minutes to be kept of the proceedings of every meeting and the minutes shall be transmitted to the Board as soon as practicable after the meeting at which they are confirmed.

20. The Board shall prescribe the procedure to be followed by a Government ministry or department where a tender committee has not been established in terms of Part III and this Part.

Procedure
where tender
committee not
established in
terms of Parts
III and V

21. (1) The tender procedures specified in these Regulations shall not apply to-

Tender procedures not to apply to controlled goods, services purchased at official price, etc.

(a) goods and services which are to be procured at the official or controlled price from a Government or parastatal body or goods which are controlled in terms of price unless-

- (i) the goods and services are to be obtained from outside Zambia; and
- (ii) the goods are capital goods; and

(b) goods and services which are to be obtained in accordance with an international agreement.

(2) Where the goods or services are procured in accordance with paragraph (a) of sub-regulation (1) the purchasing officer shall, at the time of ordering the goods or services, inform the relevant tender committee as to the-

- (a) description, unit, quantity and value of the goods ordered; or
- (b) type of services to be obtained and the cost thereof.

22. Where a dispute between a tender committee and a contractor arises and the two parties fail to resolve the dispute amicably, either of the parties may refer the dispute to the Board for a decision.

Board to settle disputes

23. The Board shall delegate to a tender committee such of its functions relating to the procurement of goods and services as provided in these Regulations.

Delegation to other persons

PART VI

FINANCIAL LIMITS FOR GOVERNMENT PURCHASES

24. (1) Where the estimated value of goods or services for Government purchases- Financial limits for Government purchases

(a) does not exceed fifty thousand kwacha informal tenders shall be invited and authorised for acceptance by a senior officer generally or specially designated for the purpose by the Controlling Officer;

(b) exceeds fifty thousand kwacha but does not exceed two hundred thousand kwacha, informal tenders shall be invited and authorised for acceptance by the Head of Department with the approval of the Controlling Officer;

(c) exceeds two hundred thousand kwacha but does not exceed five million kwacha, informal tenders shall be invited and authorised for acceptance by the Controlling Officer or the Permanent Secretary for a Province;

(d) exceeds five million kwacha, but does not exceed twenty-five million kwacha, formal tenders shall be invited and authorised for acceptance by a ministry or provincial tender committee; or

(e) exceeds twenty-five million kwacha, formal tenders shall be invited and authorised for acceptance by the Central Tender Board.

(2) The financial limits specified in sub-paragraph (1) shall be administered under the following conditions:

(a) the estimated value shall include the total value of all items which can reasonably be obtained at any one time in one requisition or in one contract;

(b) the supply or service shall not be sub divided or deliberately underestimated in order to bring the total value within the limits set in sub-paragraph (1); and

(c) procurement of the same type of goods or services within the limits given to controlling officers and their subordinate staff shall not be undertaken more than once in every three months.

(As amended by S.I. No. 132 of 1996)

25. Contracts for the supply of articles of a fragile or perishable nature shall, so far as may be practicable, be awarded to a supplier nearest to the point where the supplies are required. Perishable or fragile goods

26. Equipment including vehicles, machinery, tools and spares for Government, shall, as far as it is practicable, be obtained by the ministry responsible for works and supply. Special equipment

27. (1) A purchasing officer shall purchase from the Government Stores any items included in the approved current Stores Catalogue unless such items are not available. Purchase from Government Stores Department

(2) Where items are not available at Government Stores, a certificate of non-availability from Government Stores shall be obtained.

28. (1) A purchasing officer may place orders directly with suppliers at agreed rates under such contracts as may have been arranged either by the Central Tender Committee or a provincial tender committee. Running contracts at fixed prices

(2) Controlling Officers, purchasing officers and provincial Permanent Secretaries shall ensure that the fullest advantage is taken of running contracts.

PART VII

FINANCIAL LIMITS FOR PURCHASES BY PARASTATAL BODIES

29. (1) Where the estimated value of goods, works and services for a city or municipal council-

Application of
procurement
limits in
parastatal
bodies

(a) does not exceed fifty thousand kwacha, informal tenders shall be invited and authorised for acceptance by a senior officer generally or specially designated for that purpose by the Town Clerk;

(b) exceeds fifty thousand kwacha, but does not exceed two hundred thousand kwacha, informal tenders shall be invited and authorised for acceptance by the relevant Head of Department;

(c) exceeds two hundred thousand kwacha, but does not exceed five million kwacha, informal tenders shall be invited and authorised for acceptance by a tender committee;

(d) exceeds five million kwacha, but does not exceed twenty-five million kwacha, formal tenders shall be invited and authorised for acceptance by a tender committee; or

(e) exceeds twenty-five million kwacha, formal tenders shall be invited and authorised for acceptance by the Central Tender Committee.

(2) Where the estimated value of goods, works or services for a district council-

(a) does not exceed fifty thousand kwacha, informal tenders shall be invited and authorised for acceptance by a senior officer generally or specially designated for that purpose by the Secretary;

(b) exceeds fifty thousand kwacha, but does not exceed two hundred thousand kwacha, informal tenders shall be invited and authorised for acceptance by the Secretary;

(c) exceeds two hundred thousand kwacha, but does not exceed one million kwacha, informal tenders shall be invited and authorised for acceptance by a tender committee;

(d) exceeds one million kwacha, but does not exceed ten million kwacha, formal tenders shall be invited and authorised for acceptance by a tender committee;

(e) exceeds ten million kwacha, formal tenders shall be invited and authorised for acceptance by the Central Tender Committee.

(3) Where the estimated value of goods and services for parastatal bodies other than those provided for under sub-paragraphs (1), (2) and (4)-

(a) does not exceed fifty thousand kwacha, informal tenders shall be invited and authorised for acceptance by a senior officer generally or specially designated for that purpose by the Chief Executive;

(b) exceeds fifty thousand kwacha, but does not exceed two hundred thousand kwacha, informal tenders shall be invited and authorised for acceptance by the relevant Head of Department;

(c) exceeds two hundred thousand kwacha, but does not exceed twenty-five million kwacha, informal tenders shall be invited and authorised for acceptance by a tender committee;

(d) exceeds twenty-five million kwacha, formal tenders shall be invited and authorised for acceptance by the Central Tender Committee.

(4) Where in ZCCM-

(a) operating expenditure which is not of a capital nature, and the estimated value of goods or services-

i(i) does not exceed twenty-five million kwacha, tenders shall be invited and authorised for acceptance by any senior officer designated for the purpose by the Chief Executive;

(ii) exceeds twenty-five million kwacha, tenders will be invited and authorised for acceptance by the ZCCM tender committee;

(b) capital expenditure involves Government funding or guarantees, and the estimated value for goods, works and services-

i(i) does not exceed twenty-five million kwacha, tenders shall be invited and authorised for acceptance by the ZCCM tender committee;

(ii) exceeds twenty-five million kwacha, formal tenders shall be invited and authorised for acceptance by the Central Tender Committee.

30. Contracts for the supply of articles of a fragile or perishable nature shall, so far as may be practicable, be awarded at the centre where the supplies are required. Perishable or fragile goods

PART VIII

GENERAL PROVISIONS FOR GOVERNMENT AND PARASTATAL BODIES

31. When formal tenders are to be invited a tender committee shall ensure that- Formal tenders

- (a) there is a concise description of the goods or services required;
- (b) an estimate of costs and completion time for building and construction works has been obtained;
- (c) the point of delivery of goods or the place where work is to be performed is specified;
- (d) the name and address of the office from which tender documents, detailed specifications or further particulars may be obtained has been specified;
- (e) the closing date for receipt of tenders by the tender committee has been stated;
- (f) the names of newspapers, trade papers, periodicals or other media in which it is suggested that tenders be further advertised has been specified; and
- (g) written assurance has been obtained by the Controlling Officer or the Chief Executive, as the case may be, that funds have been voted for such project, works or services and such funds as are required to make stage payments shall be made available on time.

32. Each application to a tender committee for the advertisement of a tender shall be accompanied by copies of the tender documents, Documents for formal tenders

specifications and other relevant particulars applicable to the type of tender.

33. (1) Each application to a tender committee for the advertisement of a tender shall be given a separate reference number by the tender committee

Numbering of tenders

(2) The reference number referred to under sub-regulation (1) shall identify the tender, and the tenderer shall quote it on all tender documents and print it on the envelop or other document in which formal tenders are submitted.

34. (1) An offer to tender shall be in the form set out in the First Schedule.

Date of submission of tenders

(2) An offer to tender shall be submitted within a period of-

(a) not less than four weeks after the date of publication of the invitation to tender, or

(b) not less than eight weeks after the date of publication of the invitation to tender in the case of tenders invited from outside Zambia.

35. Where a Controlling Officer or Chief Executive intends to reduce the time allowed for tender under paragraph 34 he shall inform the appropriate tender committee and give full reasons, in writing, for the proposed reduction.

Reduced time limit

36. (1) If, after the invitation to tender has been published, a Controlling Officer or Chief Executive wishes to have the published time limit extended, he shall inform the appropriate tender committee of his proposed date and give full reasons, in writing, for the extension.

Extended time limit

(2) The extension, if granted, shall be published through the same media that published the original invitation to tender.

37. A tender received after the closing time shall be stamped, recorded

Late tenders

in a register and returned to the tenderer concerned without being considered.

38. (1) A notification of a withdrawal of a tender shall be in the form set out in the Second Schedule. Withdrawal of tenders

(2) A withdrawal of a tender shall only be valid if received before the closing time of the tender.

(3) A withdrawal of a tender received after the closing date shall be stamped, recorded in a register and returned to the tenderer concerned.

(4) The tender that was submitted and letter of withdrawal shall be announced at the public opening, after which, the withdrawn tender shall be declared non-responsive and recorded as such.

39. (1) All tenders shall be opened- Procedure etc., on opening of tenders

(a) by the Secretary of the tender committee or any person authorised by the tender committee in that behalf;

(b) in public, at the offices of the tender committee; and

(c) on a day, other than a public holiday, or the day following a public holiday.

(2) The tender committee shall scrutinise tenders for completeness and the following tenders shall be considered non-responsive:

(a) a tender submitted after the closing date;

(b) a tender sent by telex, telephone or telegraph;

(c) a tender not accompanied by tender security, where required;

(d) a tender with insufficient information concerning specifications, prices and delivery;

(e) unsolicited offers; or

(f) a tender upon which the tenderer has made revisions on his own after the tender opening.

(3) Any person may attend to witness the opening of tenders.

(4) The following procedure shall apply when tenders are being opened:

(a) each priced page shall be embossed;

(b) the name of the tenderer and the tender number shall be announced; and

(c) the total tender price, quantity offered and delivery period shall be read out, but where unit prices are quoted these need not be announced.

(5) A record of persons attending each tender opening and those who have tendered, shall be maintained.

(6) Envelopes in which tenders and tender modifications are received shall be retained in a temporary file until all the awards have been made.

40. Tender documents shall state the following:

Tender
documents

(a) that the lowest or highest tender shall not necessarily be accepted;

(b) that no tender shall be considered unless it is delivered to the tender committee by the closing date and time published and that this shall apply notwithstanding that the tender may be delayed in the post;

(c) that tenders shall not be considered unless they comply fully with the advertised specifications and other requirements;

(d) that tenderers shall be at liberty to tender for less goods or services than required only when the notice of tender so provides;

(e) that each tender shall be submitted in a separate sealed envelope or other container to the tender committee and that the tenderer shall print the number of the advertised tender notice and a brief description of the goods, works or services being tendered for on the envelope or container;

(f) that tenders for goods shall state-

(i) the country of manufacture and the name of the manufacturer of the goods;

(ii) for goods manufactured outside Zambia, whether the supply is offered from stocks on which import duty and value added tax have been charged or from stocks which will be directly imported free of duty and value added tax; if the former is the case, the value of goods on which import duty and value added tax have been calculated shall be stated;

(iii) if import duty and value added tax have been paid, either on the items offered or on the material imported for their manufacture, the amount of duty and value added tax paid shall be stated;

(iv) for goods tendered for by tenderers within Zambia, whether reserve stocks are held in Zambia and whether any kind of after sales service is available;

(g) that the contractor shall be responsible for the safe arrival or delivery of supplies; and in order to mitigate his responsibility, if the contractor insures the supplies and any other liability under the contract, the cost of which shall be borne by him, then the contract price shall be deemed to be inclusive of all insurance charges;

(h) that the contractor shall bear the full financial consequences of any material damage or personal injuries which, through his action or his agent's, may be suffered by himself, his agents or any third party during the performance of the contract, either on the contractor's premises, purchaser's premises or anywhere else;

(i) that priced bills of quantities contained in a separate envelope endorsed with the tenderer's name shall be submitted together with the tender:

Provided that the lowest tenderer may still be asked to submit his bills if any are not received by the due date:

(j) that for tenders that have been advertised, the rates set out in the Third Schedule shall be used as non-refundable tender document

charges;

(k) that tender and performance securities as set out in Part I and II of the Fourth Schedule shall be required on all procurement of goods and services in excess of twenty five million kwacha, and that performance securities shall be required on all building and construction works in excess of one hundred million kwacha; the tender securities shall be in the sum equal to two per cent of the amount of the tender and performance securities shall be equal to ten per cent of the contact price;

(l) that tender securities shall be furnished by the date the tender is being opened and performance securities shall be furnished within fourteen days of the signing of the contract;

(m) that failure to furnish tender security or performance security within the time specified shall constitute grounds for termination of the contract for default;

(n) that tenders securities shall be returned to unsuccessful tenderers as soon as an award has been made; tender security or performance security submitted by a successful tenderer shall be retained until the tenderer has executed all his contractual obligations;

(o) that the Secretary to the tender committee shall determine the validity of the tender security or performance security;

(p) that the performance security shall be discharged by the purchaser and returned to the contractor not later than ninety days after the date of receipt of the goods or services by the consignee, in terms of the contract; and

(q) that goods-

(i) manufactured in Zambia, i.e. goods whose cost of materials, labour and services constitute not less than forty per cent of the finished product, shall be given price preference of fifteen per cent;

(ii) imported and held in stock by merchants in Zambia shall be given price preference of five per cent; and

(iii) produced by small business enterprises with a paid up capital or two hundred and fifty thousand kwacha shall be given preference of twenty per cent.

41. (1) A tender committee shall ensure-

Tender
evaluation

(a) that the criteria used in evaluating tenders is fully consistent with information given in the tender documents;

(b) that tenders are scrutinised for completeness in accordance with sub-paragraph (2) of paragraph 39; and

(c) that the period, not exceeding twenty-one days, within which an evaluation report is to be submitted to it for consideration, is stated.

(2) Where an offer elapses as a result of a purchasing institution failing to meet the provisions of item (1) of sub-paragraph (1) and a revalidation of the offer is necessitated, the costs of the revalidation shall be met by the purchasing institution.

42. (1) Special formal tenders are those which shall not be advertised in the *Gazette* or in any other publication and for which tenders shall be invited from nominated firms in accordance with this paragraph. Special formal tenders

(2) Except as specifically provided for in these Regulations, the requirements applying to formal tenders shall apply to special formal tenders.

(3) A tender committee may authorise special formal tenders or negotiations where-

(a) there is a proclamation in force declaring a state of emergency or threatened emergency under the Constitution;

(b) it is in the interest of public order, public safety or public security;

(c) building works of a specialised or complex nature are involved, or equipment to be obtained is highly specialised;

(d) the goods and services to be obtained are of a personal or professional nature;

(e) services are to be rendered by an educational or training institution;

(f) evidence is furnished that there are no other competing institutions or organisations in respect of the goods or services to be supplied or rendered and that the supplier is the sole franchise holder;

(g) the goods or services to be supplied or rendered are to be used in, or are in the nature of, research work;

(h) equipment to be supplied is technical and is of a nature that requires standardisation and inter-changeability of parts; or

(i) there has been no acceptable tender from all formal tenders previously invited.

43. Informal tenders shall be invited from at least three contractors or suppliers. Informal tenders

44. (1) Tender samples shall be- Tender samples

(a) submitted as part of the tender, in the quantities, sizes and other details requested in the invitation to tender;

(b) carriage paid;

(c) received within seven days after the date set for opening of tenders if submitted separately from tender offers; and

(d) evaluated to determine compliance with all characteristics listed in the invitation.

(2) Failure of samples to conform to all characteristics referred to in the invitation for tenders and failure to furnish samples by the time specified shall entitle a tender committee to reject the tender.

(3) Notwithstanding the other provisions of this regulation, the Secretary to the tender committee shall call for samples where the tenderer's offer is competitive.

<p>45. Where it is not possible to avoid using a proprietary article as a sample, the tenderer shall make it clear that the proprietary article is displayed only as an example of the type or quality of the goods being tendered for and that competition shall not thereby be limited to that article only.</p>	<p>Proprietary articles as samples</p>
<p>46. (1) Samples made up from materials supplied by a tender committee shall not be returned to the tenderer nor shall the tender committee be liable for the cost of making them.</p>	<p>Tender committee sample materials</p>
<p>(2) All samples produced from materials belonging to the tenderer which are not claimed by the tenderer within a period of three months from the date of the award of tender, shall be the property of the Board and shall be sent to the Director who shall dispose of them in such a manner as may be directed by the Board.</p>	
<p>47. (1) The description of the goods or services in the tender invitations shall be clear and broad based.</p>	<p>Product specifications</p>
<p>(2) Specifications issued by the Zambia Bureau of Standards or any other international standards being used shall be clearly stated.</p>	
<p>(3) A brand name shall not generally be used when tenders are being invited.</p>	
<p>(4) It shall be essential to indicate the brand name or quality of the article required; and words such as "or other article of comparable quality" shall be included in the invitation to tender.</p>	
<p>48. When the value of goods or services exceeds one hundred million kwacha, tender documents shall include the following particulars:</p>	<p>Financing of works contracts</p>
<p>(a) how (for example, in terms of working capital and capital equipment) and to what extent the project shall be financed from the purchasing institution's own resources;</p>	
<p>(b) if finance from a foreign country is necessary the extent to which and how, the purchasing institution intends to raise funds in Zambia for the financing of the project both before and during the course of works;</p>	

(c) if funds for the financing of the project are to be raised by foreign borrowing-

(i) the terms and conditions of such loans;

(ii) to what extent the purchasing institution will request repatriation of "progress" payments to cover the loans other than the repatriation of profits on the completion of a contract by the tenderer;

(d) the proportion of the tender sum, in the case of works contracts expected to be paid out in foreign currency.

49. (1) Copies of all correspondence entered into with tenderers upon the subject of errors in their tenders between the time of opening of the tenders and the decision of a tender committee shall be sent to the Secretary of the tender committee with recommendations and comments thereon. Correspondence upon errors

(2) Except with the express permission of the Secretary to the tender committee no other communication shall take place with the tenderer upon the subject of his tender during this period.

50. (1) The successful tenderer shall be advised by letter or by telegraph of the receipt of notice of award, which notice shall include information relating to the invitation, description of the items, quantity, price and contract number. Notification to successful tenderer

(2) An advance notice of award may be given by the Secretary of the tender committee to the successful tenderer only where-

(a) a tender is about to expire and it is necessary to issue an award promptly;

(b) prompt action is necessary to give the contractor an opportunity to obtain materials;

(c) delivery or performance is urgent and cannot await formal contract documents; or

(d) prompt action is necessary to permit a contractor to proceed with preparation of necessary catalogue and other contract data.

(3) Advance notices shall be followed by formal contract documents as soon as possible.

(4) Telegraphic notices shall contain all of the information as directed by the tender committee and, in addition, a statement that written confirmation shall follow.

(5) Oral notices may be given only when circumstances surrounding the procurement or performance would not allow time for telegraphic notice, and shall include all information normally included in written notices and shall also include a statement that written confirmation shall follow.

(6) Where an award for a formal tender is made the Secretary to the tender committee shall publish a notice in the *Government Gazette* stating who has been awarded the tender.

51. Acceptance of any tender shall not be anticipated and orders shall not be placed until the necessary authority has been received from the tender committee. Non-anticipation of tenders

52. (1) Where it is necessary to amend or alter conditions or specifications or substitute samples after the original date for the submission of tenders, fresh tenders shall be invited so that all tenderers may have an equal opportunity of tendering on the new basis: Amendment, alteration or substitution of samples, etc.

Provided that a Controlling Officer or Chief Executive may recommend and a tender committee may approve an increase or decrease in the number of articles involved without calling for fresh tenders.

(2) Where it is necessary to alter the substance of a tender after it has been accepted, a tender committee may authorise negotiations with the contractor within the general framework of the accepted tender, but any proposed variation of contract involving either an increase or a decrease of the tendered sum be submitted to the tender committee for approval.

- 53.** (1) In periods of inflation, a price adjustment formula shall apply in order to arrive at a reasonable price. Price adjustment formulae
- (2) Tenderers shall quote on a present-day-value using price adjustment based on official statistics of Government agencies basis or United Nations agencies and the formula shall accommodate both rises and falls in price levels.
- 54.** A Controlling Officer, a Chief Executive or a tender committee may request a contractor to submit invoices and other related documents for examination. Invoice etc.
- 55.** A successful tenderer shall within fourteen days from the date of the receipt of contract forms sign and submit the contract and where it is a tender requirement to provide security the security shall be issued within fourteen days of the date of signing of the contract. Signing of contract
- 56.** A letter of intent shall only be issued to a supplier or contractor after all the terms and conditions have been agreed upon by the tender committee. Letter of intent etc.
- 57.** Where the contract involves access to confidential information- Tenders relating to public security
- (a) a Government ministry or department or body institution shall notify the contractor of the security classification of the contract and the elements thereof and of any subsequent revisions in such security classification;
- (b) the contractor shall, prior to the commencement of the contract, safeguard all classified elements of the contract and shall provide and maintain a system of strict security control within his own organisation; and
- (c) authorised representatives of the armed, security or police forces shall have the right to inspect, the procedures, methods and facilities utilised by the contractor or the compliance by the contractor with the security requirements under the contract.
- 58.** The original tender documents and related correspondence of the Disposing of

successful tenderer shall be retained by the Ministry or parastatal body and a copy of the contract or agreement shall be forwarded to the Board and the relevant tender committee.

contract
documents

59. In contracts for the supply of goods which run for a considerable period, the requirements of which cannot accurately be estimated, provision shall be made in the contract for a variation in the quantity of the goods to be supplied by twenty-five per centum over or under the contract figure.

Variation in
quantities

60. (1) Goods delivered shall be inspected, sampled and tested by the receiving Ministry or parastatal body and they shall not be accepted unless they comply with the stipulations of the contract.

Inspection of
goods delivered

(2) Contracts shall contain a clause that the supplier shall be responsible for all costs and expenses incurred due to a justified rejection of his goods on the ground that they do not comply with the stipulation of the contract.

61. The Board shall prescribe general conditions of contract for Government and parastatal bodies which may, with the approval of the Board be varied generally or with references to a particular contract.

General
conditions of
contract

PART IX

GENERAL PROVISIONS

62. (1) Any person who-

Offences and
penalties
relating to
tender
documents

(a) opens any envelope or other container in which a tender is contained, other than in the due and proper execution of his duties under these regulations;

(b) burns, tears or otherwise destroys or partially burns, tears or destroys any tender; or

(c) erases or does any other act which falsifies, or renders incomplete or misleading any tender;

shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(2) For the purpose of this regulation "tender" includes documents or things submitted together with the tender and which are relevant to the tender and which are in the possession of the Board, a tender committee or any other person authorised by the Board.

63. The Board may, in its discretion, direct that all tenders or any class of tenders shall be invited or approved only by the Board.

Tenders to be invited and approved only by board

64. Spent.

FIRST SCHEDULE

Regulation 34)

TENDER FORM

Date:

Contract No.

To:.....

(Name and Address of Purchaser)

Gentlemen.

Having examined the Conditions of Contract and Specifications including Addenda

Nos. the receipt of which

offer to supply and

deliver.....

in conformity with the said Drawings, Conditions of Contract and Specifications for the sum

of, (b) or such other sums as may

I (We) undertaken, if the tender is accepted, to commence delivery of the goods or services*

within (c) and to complete delivery

within (c) days calculated from date of rece

If the tender is accepted I (We) will obtain the guarantee of a Bank in a sum not exceeding
performance of the Contract.

I (We) agree to abide by this tender for a period of (c) days from the date f
me (us) and may be accepted at any time before the expiration of that period.

Until a formal contract is prepared and executed, this tender together with your written acceptance thereof in
contract between us.

I (We) understand that you are not bound to accept the lowest or any tender you may receive.

Dates this.....day of.....19....

.....
Signature

.....
(In the Capacity of)

Duly Authorised to sign tender for and on behalf

Witness.....

Address

.....

Signature

- (a) description of goods or services
- (b) total tender amount
- (c) number of days
- (d) percentage

* delete whichever is not applicable

SECOND SCHEDULE

(Regulation 38)

WITHDRAWAL OF TENDERS

"I of (address) being duly authorised
of
(employer)
scheduled for opening on
withdraw that tender from
consideration;.....

Signature

Telephone No.....

Date

THIRD SCHEDULE

(Regulation 43 (k))

1. NON-REFUNDABLE TENDER DOCUMENT CHARGES

<i>Estimated Tender Cost</i>	<i>Tender Document Charges</i>
	K
(a) Up to ten million Kwacha	2,000.00
(b) Each additional ten million Kwacha or part thereof	2,000.00
(c) All tenders above one billion Kwacha	200,000.00

2. COST OF POSTAGE OR HAND DELIVERY OF TENDER DOCUMENT

Where a prospective tenderer requests the Board to send the tender documents by post or by hand delivery, the tenderer shall be charged the actual cost of the postage on delivery.

FOURTH SCHEDULE

(Regulation 43 (l))

PART I

TENDER SECURITY FORM

WHEREAS (hereinafter called "the Tenderer")
tender
dated
for the supply of (hereinafter called "the
tender")

KNOW ALL MEN by these presents that we of
having our registered office at
called "the Bank") are bound unto for which payment
be made to the said purchaser, the Bank binds itself, its successors and assigns by these presents.

Sealed with the Common Seal of the said Bank this day
of 19.....

THE CONDITIONS of this obligation are:

- (a) if the tenderer withdraws its tender during the period of tender validity specified by the Tenderer on the tender form;
- (b) if the tenderer having been notified of the acceptance of its tender by the Purchaser during the period of tender validity:
 - (i) fails or refuses to execute the Contract Form, if required; or
 - (ii) fails or refuses to furnish the Performance Security, in accordance with the instructions to Tenderers.

We undertake to pay to the purchaser up to the above amount upon receipt of its first written demand without having to
substantiate its demand, provided that in its demand the purchaser will note that the amount claimed by it is due on the
occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and the demand
thereof should reach the Bank not later than the above date.

.....

(Signature of the Bank)

.....

(Signature of the Witness)

Name of Witness:

Address of Witness:

PART II

PERFORMANCE SECURITY FORM

To: (Name of Purchaser)

WHEREAS(Name of Supplier) hereinafter called "the Supplier" has undertaken in pursuance of Contract

No. dated

in 19..... to supply (Description of Goods and

Services) hereinafter called "the Contract".

AND WHEREAS it has been stipulated to you in the said Contract that the Supplier shall furnish you with a Bank Guarantee for the sum specified therein as security for compliance with the Supplier's performance of the Contract in accordance with the Contract.

AND WHEREAS we have agreed to give the Supplier a Guarantee:

THEREFORE, we hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, upon your first written demand for the sum specified (Amount of Guarantee in words and Figures) and we undertake to pay you, upon your first written demand for the sum specified in the event the Supplier to be in default under the Contract and without cavil and argument, any sum or sums within the limit of the Guarantee)

aforesaid, without your needing to prove to or show grounds or reasons for your demand or the sum specified

This guarantee is valid until the

day of 19.....

Signature and Seal of the Guarantors

.....

.....

.....

.....

Date:

Address:

.....

.....

CHAPTER 396 THE GOLD TRADE ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

DEALING IN GOLD

3. Prohibition on dealing in gold except by persons duly authorised
4. Saving as to location holders
5. Authorised persons only to deal with other authorised persons
6. Forfeiture of licence
7. Prohibition on importation of gold except through customs ports of entry
8. Procedure by person so importing
9. Burden of proof as to licence or authority
10. Stoppage in transit of any package believed to contain gold unlawfully dealt with
11. Powers of search
12. Forfeiture of gold seized
13. Saving as to sale of gold seized or forfeited
14. Disposal of fines, etc.
15. Persons liable for acts or omissions

PART III

LICENCES

16. Licences to deal in gold
17. Fees and details of licences to deal in gold
18. Gold Broker's licence
19. Forfeiture of licence when obtained by misrepresentation
20. Power to authorise bankers, assayers or owners of metallurgical works to deal in gold

Section

21. Permits to buy or sell gold
22. Penalties
23. Production of licence, permit, etc.

SCHEDULE-Prescribed forms

CHAPTER 396

GOLD TRADE

An Act to regulate and control dealing in gold; to prescribe forms and fees for licences to deal in gold; and to provide for matters incidental to or connected with the foregoing.

16 of 1912
 36 of 1933
 20 of 1950
 9 of 1951
 2 of 1956
 10 of 1957
 [18th December, 1912] 19 of 1959
 57 of 1964
 12 of 1968
 10 of 1984
 13 of 1994
Government
Notice
 497 of 1964
Statutory
Instruments
 10 of 1964
 5 of 1965

PART I

PRELIMINARY

1. This Act may be cited as the Gold Trade Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"dealer" includes a buyer, seller, broker, factor, giver or receiver or any other party to any dealing or transaction whatsoever with regard to gold, and "deal" shall be construed accordingly;

"gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(No. 10 of 1957)

PART II

DEALING IN GOLD

3. No person, except as is in this Act enacted, shall have in his possession or shall buy, deal in, or receive by way of barter, exchange, pledge or otherwise, either as principal or agent, or shall sell, offer, or expose for sale, barter, exchange, pledge, or in any way, either as principal or agent, dispose of or deliver any gold, or be an accessory to such buying, dealing in, receiving, offering, exposing, disposing or delivery aforesaid unless such person so buying, dealing in, receiving, selling, offering, exposing, disposing or delivering as aforesaid shall be duly licensed or authorised to deal in gold either as buyer, seller, broker, factor or otherwise, as the case may be:

Prohibition on dealing in gold except by persons duly authorised

Provided that-

(i) no such licensed dealer or duly authorised person shall deal in gold, otherwise than in the manner specially authorised by his licence or authority, or sell, offer or expose for sale, barter or pledge, either as principal or agent, or in any way dispose of or deliver any gold, unless such gold shall be actually the property or in the lawful possession of such licensed dealer in gold or duly authorised person;

(ii) the onus of proof of the *bona fide* possession of or authority to deal in any such gold as aforesaid within the meaning of this section

shall in all cases rest on such licensed dealer in gold or duly authorised person;

(iii) any person who shall be unable to account satisfactorily for or to prove his right to the possession of gold found in his possession, or to produce his proper permit for the same in accordance with the provisions of this Act, shall be liable on conviction to the penalties hereinafter provided.

4. Nothing contained in section *three* shall prevent or prohibit a registered location holder from in any way dealing in or disposing of gold won and obtained by himself or on his behalf from locations of which he is the actual registered holder:

Saving as to
location holders

Provided that-

(i) the onus of proof that any gold dealt in was so obtained shall rest and be upon the person alleging that he is a registered location holder, and that the gold was obtained or won from the location of which he is the registered holder;

(ii) nothing in this section shall render lawful his dealing in any gold with any unauthorised person.

(As amended by No. 20 of 1950)

5. Any licensed dealer in gold, registered location holder, banker, or duly authorised person buying or receiving by way of barter, pledge or otherwise, either as principal or agent, any gold from any person, or in any way dealing with the same with any person not being a licensed banker, licensed dealer in gold, registered location holder disposing of gold won from his own locations, or duly authorised person, shall be liable upon conviction to the penalties hereinafter provided, and shall in addition forfeit any licence which such person may hold, and any right of renewal of the same, for such period as the court may direct, and no such person shall thereafter be registered as the agent of any location holder.

Authorised
persons only to
deal with other
authorised
persons

(As amended by No. 20 of 1950)

6. Any licensed or authorised dealer in gold in any way dealing in gold otherwise than in the manner specially authorised by the licence or

Forfeiture of
licence

authority held by or vested in him shall, on conviction thereof, be liable to the penalties hereinafter provided, and shall in addition forfeit his licence and any right of renewal of the same for such time as the court may deem fit to direct.

7. No person shall import or introduce into Zambia any gold won or obtained from any place outside Zambia except by or through one or other of the ports of entry duly appointed under the Customs and Excise Act, and any person importing or introducing such gold at any other port shall be liable upon conviction to the penalty hereinafter provided, and the gold so introduced and imported shall be forfeited in addition to any other penalties to which such person may be liable for any other offence under this Act.

Prohibition on importation of gold except through customs ports of entry
Cap. 322

8. (1) Any person introducing and importing gold from any place beyond the boundaries of Zambia shall, by written notice, inform the Controller of Customs and Excise or other proper official of the fact that he is so introducing such gold, and shall make a solemn declaration before such official stating-

Procedure by person so importing

(a) the place from which such gold was obtained;

(b) the date on which it was obtained;

(c) the name and usual address of the person from whom and the manner in which it was obtained;

(d) the weight and value of such gold and whether the same is gold itself refined or unrefined, or amalgam of gold, or slimes or scrapings.

(2) Any person who shall make a declaration which is to his knowledge false and untrue in any of the above particulars shall be deemed to have contravened subsection (1) and shall, upon conviction thereof, be liable to all the penalties which may be inflicted on any person who commits perjury, and the gold introduced and imported shall be confiscated.

9. If, in any proceeding under this Act, the court has to be satisfied either that the accused person, or any witness, or any other person, is not authorised or licensed to deal in gold within the meaning of the section under which such accused person is being tried, such accused person, witness, or other person shall be deemed to be unlicensed or

Burden of proof as to licence or authority

unauthorised unless such accused person, witness, or other person, shall prove to the satisfaction of the court that he is duly licensed or authorised as aforesaid.

(As amended by No. 20 of 1950)

10. Any police officer of or above the rank of Sub Inspector, or the Chief Inspector of Mines, the Assistant Chief Inspector of Mines, Senior Inspectors of Mines, or any Inspector of Mines, or any officer duly authorised by the President in that behalf, whenever he shall have good cause to believe that any letter, parcel or package which is being despatched through the post office by any person not authorised or licensed to deal in gold, contains gold, or if such officer shall have cause to believe that such package, letter or parcel contains gold obtained from a person not authorised or licensed to deal in gold, may stop or cause to be stopped such letter, parcel or package aforesaid at any post office within Zambia, or while in possession of the post office either during the transit of such letter, parcel or package or otherwise, and thereupon any of the aforesaid officials may proceed to open and examine such letter, parcel or package in the presence of the postmaster or any post office official, and if there shall be discovered therein any gold sent by any unauthorised or unlicensed person, or obtained from any unauthorised or unlicensed person, the person who has despatched such letter, parcel or package shall be liable to the penalties hereinafter provided and all gold found in such letter, parcel or package shall be forfeited.

Stoppage in transit of any package believed to contain gold unlawfully dealt with

(As amended by No. 20 of 1950, No. 9 of 1951, No. 2 of 1956 and S.I. No. 10 of 1964)

11. Any police officer, when thereto authorised by a warrant granted under the hand of a magistrate having jurisdiction, may at any time enter in and upon and search any buildings, premises or railway trains, vehicles, ships or boats, or any other place where he may have good cause to suspect that any gold is unlawfully concealed, and may arrest and search any person then being upon such building, premises, railway train, vehicle, boat or other place, whom he may have good cause to suspect of having upon his person or in his possession any gold obtained in contravention of this Act, and should there be found upon such person, or in such premises, building, railway train, vehicle, boat or other place, any gold so obtained, may seize such person who may reasonably be suspected of being the possessor of or interested in such gold and as soon as possible bring such person before any magistrate having jurisdiction, and if such person shall then fail to produce a proper permit or licence for the possession of such gold or to account for the possession thereof to the satisfaction of the magistrate before whom

Powers of search

such person is brought, such person shall be liable to all the penalties hereinafter provided, and such gold shall be forfeited and sold as hereinafter provided.

(As amended by No. 36 of 1993)

12. Should any gold seized or taken under the provisions of this Act be ordered to be forfeited by any competent court, such gold may be sold and the proceeds of such sale paid into the general revenues of the Republic:

Forfeiture of
gold seized

Provided that-

(i) any such gold shall not be sold until the expiry of six months after the date of the order forfeiting and confiscating the same, and after due advertisement of the sale of the same; and

(ii) should any person appear, claim and establish his right to any gold so forfeited or confiscated within the said period, the said gold shall be delivered to such person, but such person shall be liable to pay to the Government any reasonable expenses to which the Government may have been put in the proper retention, custody and advertisement of such gold.

(As amended by S.I. No. 5 of 1965)

13. No person who, by the order in writing of any court, shall sell any gold seized or forfeited under this Act, shall be liable in respect of such sale to any of the penalties provided for in this Act.

Saving as to
sale of gold
seized or
forfeited

14. All fines recovered and the proceeds of all gold forfeited and sold under the provisions of this Act shall be paid into the general revenues of the Republic.

Disposal of
fines, etc.

(As amended by S.I. No. 5 of 1965)

15. If any act should be done, omission made or transaction carried out, in contravention of the terms of this Act, the following persons shall be liable and suffer the penalties upon conviction for the act, transaction, or omission complained of:

Persons liable
for acts or
omissions

(a) the person actually doing the act or carrying out the transaction

or making the omission; or

(b) in case the act, transaction or omission complained of shall have been done or omitted on behalf of a bank or company, the manager or secretary of such bank or company; or

(c) in case the act, transaction or omission was done or omitted on behalf of a partnership or firm, then all the members of such partnership or firm within the jurisdiction of the court before which conviction is sought:

Provided that in all proceedings against the persons mentioned in paragraphs (b) and (c), if such persons shall point out the person who actually did the act or made the omission complained of, and shall prove that such act or omission was done or made without his authority and not for his benefit, then the person so pointed out shall alone be liable for the penalties prescribed in this Act.

PART III

LICENCES

16. No person shall deal in gold either as buyer, seller, exporter or importer or in any other capacity whatever, nor shall any person carry on the business of a gold broker or factor unless such person shall be duly licensed for such purposes as aforesaid either as dealer, broker or factor, or in any other capacity, and any person contravening this section shall be liable to the penalties hereinafter provided. Licences to deal in gold

17. For every licence to deal in gold, other than a licence to be a gold broker or factor, there shall be paid a fee of two thousand five hundred fee units when the licence is first issued to a person, or a fee of twelve thousand five hundred fee units when the licence is renewed, and every such licence shall be issued by the Minister and shall be in Form 1 in the Schedule: Fees and details of licences to deal in gold

Provided that every such licence shall, no matter when taken out, expire on the 31st December then next following.

(No. 20 of 1950 as amended by No. 10 of 1957, No. 10 of 1984 and Act No. 13 of 1994)

18. (1) For every licence to be a gold broker or factor there shall be paid a fee of one thousand two hundred and fifty fee units, and every such licence shall be issued by the Minister and shall be in Form 2 in the Schedule: Gold broker's licence

Provided that every such licence shall, no matter when taken out, expire on the 31st December then next following.

(2) The Minister shall not issue any licence to deal in gold or to carry on the trade of gold broker or factor unless the person applying for such licence shall, when applying for the same, produce and lodge with him a certificate under the hand of a police officer of or above the rank of Sub Inspector in Form 3 in the Schedule:

Provided that-

- (i) a police officer of or above the rank of Sub Inspector shall not sign or issue such certificate until the person applying for such certificate shall, together with two sufficient sureties, have entered into a recognizance in Form 4 in the Schedule;
- (ii) no such certificate shall be issued to any person who shall, at the time of making application for such certificate, be the holder of or interested in any retail licence to deal in intoxicating liquors, or who shall have been convicted of any offence under this Act, and shall have been adjudged to have forfeited his licence until such time shall have elapsed during which he was adjudged incompetent to hold any licence;
- (iii) nothing in this section shall make it compulsory on any police officer to issue the certificate aforesaid.

(As amended by No. 20 of 1950, No. 10 of 1957, S.I. No. 10 of 1964, Act No. 10 of 1984 and Act No. 13 of 1994)

19. Any licence, permit or certificate which shall have been obtained by concealment or misrepresentation of matters which, if known, would have prevented the issue of any such licence, permit or certificate under this Act for any valid reason shall, upon proof of such concealment or misrepresentation before any magistrate, be forfeited, and the person who by such concealment or misrepresentation shall have obtained such licence, permit or certificate shall upon conviction be liable to the penalties hereinafter provided. Forfeiture of licence when obtained by misrepresentation

20. Any banker, assayer, or owner of metallurgical works may be authorised by the Minister without the production of the certificate mentioned in this Act to deal in gold, subject to such terms and conditions as to the amount of gold to be possessed or dealt in at any one time and the manner of dealing with such gold as the Minister may deem fit to impose, and without the payment of any fee or licence money.

(As amended by No. 10 of 1957)

Power to
authorise
bankers,
assayers or
owners of
metallurgical
works to deal in
gold

21. On payment to him of the sum of one hundred and twenty- five fee units, the Minister may issue to any person a permit in Form 5 in the Schedule to buy, sell, deliver or receive any gold:

Permits to buy
or sell gold

Provided that no such permit to buy or receive shall be granted unless the applicant shall make a declaration either in Form 6 or 7 in the Schedule. Any person making a false declaration to obtain such permit shall be guilty of an offence.

*(No. 20 of 1950 as amended by No. 2 of 1956, No. 12 of 1968
and Act No. 13 of 1994)*

22. Any person convicted of contravening either section *three, five, six, seven, ten, eleven, sixteen, twenty* or *twenty-one* shall be liable to a penalty not exceeding thirty thousand penalty units or imprisonment with or without hard labour for a period not exceeding five years, or to both for each offence so committed, and all gold, the subject of any transaction in contravention of this Act, shall be confiscated to the Government by the court before which the proceedings relating thereto shall be taken, or by any other competent court.

*(As amended by No. 20 of 1950
and Act No. 13 of 1994)*

Permits to buy
or sell gold

23. Every licensed gold dealer and every holder of a permit shall be bound to exhibit his licence or permit to any police officer of or above the rank of Sub Inspector or the Chief Inspector of Mines, the Assistant Chief Inspector of Mines, Senior Inspectors of Mines, or any Inspector of Mines or other official thereto duly authorised by the President, and every such licensed person or persons holding a permit who shall refuse or neglect to produce the licence or permit to such authorised person when called upon to do so shall for the first offence be liable to a penalty not exceeding three thousand penalty units and for a subsequent offence

Production of
licence, permit,
etc.

a penalty not exceeding nine thousand penalty units and shall, in addition, be liable to forfeit any licence or permit held by him or any renewal of the same for such period as the court shall order.

*(As amended by No. 20 of 1950, No. 9 of 1951,
No. 2 of 1956, S.I. No. 10 of 1964 and No. 13 of 1994)*

SCHEDULE

PRESCRIBED FORMS

FORM 1

(Section 17)

FORM OF LICENCE TO DEAL IN GOLD

I, on this day of,
19, do hereby authorise and empower who has
produced to me his certificate required by section 18 of the Gold Trade Act, to deal in gold
within Zambia for the
ending on the day of 19 and no longer.

(Signed)

(No. 10 of 1975 as amended by S.I. No. 5 of 1965)

FORM 2

(Section 18)

FORM OF LICENCE FOR GOLD BROKER OR FACTOR

I, on this day of,
19, do hereby authorise and empower who has
produced to me his certificate required by section 18 of the Gold Trade Act, to act as gold
broker or factor within Zambia for the
ending on the day of 19 and no longer.

(Signed)

(No. 10 of 1957 as amended by S.I. No. 5 of 1965)

FORM 3

(Section 18)

FORM OF GOLD DEALER'S OR GOLD BROKER'S OR FACTOR'S CERTIFICATE

I, Police Officer,
of do hereby certify
that is a fit and proper
person to receive a licence to deal in/act as Broker of/act as Factor of Gold.
(Station)

Police Officer

(Date)

(No. 20 of 1950 as amended by S.I. No. 10 of 1964)

FORM 4

(Section 18)

RECOGNIZANCE UNDER THE GOLD TRADE ACT

On the day of ,19,
appeared before me magistrate of the District of
and acknowledge themselves to owe the Republic
to wit the said the sum of one thousand kwacha
and the said and each
the sum of one thousand kwacha of good and lawful money to be respectively made and
levied of their several goods, chattels, lands and tenements to the use of the Republic if the
said shall fail in performing the conditions underwritten.

The condition of this recognizance is that if the said
shall strictly conform to and abide by all and singular the provisions of the Gold Trade Act
during the time the licence to be by him obtained under that Act shall be in force, then this
recognizance shall be null and void or else shall remain in full force and effect.

The said and the said
and the said do hereby further jointly and severally
agree that in the event of the said being convicted
of contravening any provision of this Act this recognizance shall *ipso facto* become at once
executable without the necessity of further process just as if judgment had been obtained
upon it.

Taken and acknowledged this day and year above written.

Proposed Licensee

Surety

Surety

Magistrate

(As amended by S.I. No. 10 of 1964)

FORM 5

(Section 21)

FORM OF PERMIT

Permission is hereby granted unto

to (a) gold of the weight of

from/to

(Date)

(Signed)

(a) Insert here "buy", "sell", "deliver" or "receive".

NOTE.-The definition of "gold" in the Act is as follows: "Gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

*(No. 20 of 1950 as amended by No. 2 of 1956
and No. 12 of 1968)*

FORM 6

(Section 21)

FORM OF DECLARATION OF PERSON DESIRING A PERMIT

I, _____ of _____ do solemnly and sincerely declare as follows:

- (1) I am desirous of receiving from _____ gold of the weight of _____ which I require for my own use and not for the purposes of trade here or elsewhere:
- (2) The said _____ from whom I am to receive the said gold is, to the best of my knowledge and belief, duly authorised under the provisions of the Gold Trade Act to be in possession of the said gold, and I make this solemn declaration conscientiously believing the same to be true.

Declared before me this _____ day of _____, 19 _____

Magistrate

NOTE.-The definition of "gold" in the Act is as follows: "Gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(As amended by No. 36 of 1933)

FORM 7

(Section 21)

FORM OF DECLARATION OF PERSON DESIRING A PERMIT

I, _____ of _____ do solemnly and sincerely declare as follows:

- (1) I am desirous of receiving from _____ gold of the weight of _____ which I require for use in my trade as a _____ and not for sale or other disposal.
- (2) The said _____ from whom I am to receive the said gold is, to the best of my knowledge and belief, duly authorised under the provisions of the Gold Trade Act to _____ be in possession of the said gold, and I make this solemn declaration conscientiously believing the same to be true.

Declared before me this _____ day of _____, 19 _____

Magistrate

NOTE.-The definition of "gold" in the Act is as follows: "Gold" means gold in the raw state in any form or connection whatsoever which although smelted is not manufactured or made up into any article of commerce, and includes unrefined gold, amalgam, slimes and scrapings.

(No. 20 of 1950)

CHAPTER 397
THE CO-OPERATIVE SOCIETIES ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

RESPONSIBILITIES OF THE MINISTER

3. Encouragement of co-operative development
4. Responsibilities of Minister
5. Information on co-operation
6. Persons required to furnish information to Minister
7. Annual report on societies

PART III

PUBLIC OFFICERS

8. Director
9. Registrar

PART IV

**REGISTRATION AND ORGANISATION OF
CO-OPERATIVE SOCIETIES**

10. Procedure for registration
11. Requirements before registration
12. Certificate of registration
13. Societies to be bodies corporate

14. Conversion of a company into a society
15. Limited liability
16. Display of registered name
17. Dealers or traders not to register under this Act
18. Registrar may require societies to form or join a co-operative union
19. Powers of societies

Section

20. By-laws
21. Amendments to by-laws
22. Copy of Act, rules and by-laws to be open to inspection
23. Reserve fund and distribution of net surplus
24. Kinds of societies not restricted

PART V

SOCIETIES FOR RURAL DEVELOPMENT

25. Co-operative marketing
26. Distribution of agricultural requisites, etc.
27. Co-operative farming
28. Multi-purpose societies
29. Society as agent of marketing board
30. Allotment of shares in lieu of patronage bonus or other payment
31. Borrowing of patronage bonus or other payment
32. Marketing contracts
33. Encouragement of thrift
34. Registration of by-laws to encourage thrift
35. Provision of credit by agricultural societies
36. Board of directors to supervise credit and loans
37. Registration of by-laws for the provision of agricultural credit
38. A society may combine thrift services with the provision of credit
39. Farm machinery and related services

- 40. Assistance to livestock, dairy and poultry producers, etc.
- 41. Land improvement services
- 42. Special provisions in the by-laws
- 43. Advisory or supervisory services for farmers
- 44. Storage of agricultural products
- 45. Transportation of agricultural products and farm supplies

PART VI

CO-OPERATIVE SERVICES FOR PRODUCERS OF NATURAL PRODUCTS

Section

- 46. Co-operative services for producers of natural products

PART VII

BUILDING CONSTRUCTION AND HOUSING SOCIETIES

- 47. Building construction society
- 48. Housing society
- 49. Special powers
- 50. Commencement of operations
- 51. Special features
- 52. Sinking fund

PART VIII

CREDIT UNIONS

- 53. Objects of a credit union
- 54. Name
- 55. Membership generally
- 56. Membership of certain organisations
- 57. Powers of a credit union
- 58. Borrowing powers of a credit union
- 59. Commencement of lending operations

- 60. Land and buildings
- 61. Election and appointment of officers
- 62. Special duties of directors
- 63. Jurisdiction of credit committee
- 64. Loans by credit unions
- 65. Maximum of loans to a member
- 66. No loans in certain cases
- 67. Restrictions on making loans in certain cases
- 68. Approval of loans for certain purposes
- 69. Restrictions on loans to officers
- 70. Prohibitions
- 71. Unauthorised loans prohibited
- 72. Rates of interest on loans

Section

- 73. Reports of credit committee
- 74. Duties of supervisory committee
- 75. Engagement of auditor for a credit union
- 76. Shares in credit union
- 77. Members' deposits and withdrawals
- 78. Cash reserve to meet withdrawals
- 79. Distribution of net surplus of credit union

PART IX

ARTISANS', CRAFTSMEN'S AND CONTRACTING SOCIETIES

- 80. Production, manufacture and sale of goods
- 81. Special provisions in the by-laws

PART X

CONSUMERS' SOCIETIES

- 82. Consumers' societies
- 83. Special provisions in the by-laws

- 84. Special responsibilities of directors of a consumers' society
- 85. Credit controlled by directors
- 86. Qualifications for election in certain cases
- 87. Application of Part X

PART XI

COMMUNITY SERVICE SOCIETIES

- 88. Community buildings, facilities or services
- 89. No dividends on capital or patronage bonus
- 90. Provision of health services

PART XII

FEDERATIONS

- 91. Objects
- 92. Use of the word "co-operative"

PART XIII

MEMBERSHIP

Section

- 93. Membership governed by by-laws
- 94. Who may be members
- 95. Rights of minors
- 96. Member not to exercise rights until due payment made
- 97. Certificate of membership
- 98. Lien on members' shares
- 99. Certain societies to furnish statements to members
- 100. Every society to keep a membership register
- 101. Votes of members and delegates
- 102. Contracts with minors
- 103. Limitation on share holdings
- 104. Assignment, transfer and re-purchase of shares
- 105. Shares or interest not attachable

- 106. Transfer of interest on death of member
- 107. Liability of past member and estate of deceased member for debts of society
- 108. Creation of charges in favour of societies
- 109. Withdrawal by members
- 110. Expulsion of a member

PART XIV

DIRECTORS

- 111. Board of directors (or committee)
- 112. Effect of election of directors by districts
- 113. Duties and powers of directors
- 114. Officers
- 115. Term of office
- 116. Directors must be members
- 117. Vacancy on board of directors
- 118. Vacation of office of director
- 119. Liability of directors or other officers for unlawful transactions

Section

- 120. Meetings of directors
- 121. Security
- 122. Removal from office

PART XV

MEETINGS

- 123. Annual and other general meetings
- 124. Special meetings
- 125. Registrar may prescribe manner of calling meetings
- 126. Quorum
- 127. Power of Registrar to call meetings
- 128. Authority of the members

PART XVI

CHARGES BY SOCIETIES

- 129. Registration
- 130. Registration of enforcement of security and filing of accounts
- 131. Rectification of register of charges
- 132. Entry of satisfaction
- 133. Failure to send particulars for registration
- 134. Society's register of charges
- 135. Right to inspect copies of instruments and register of charges
- 136. Perpetual charges

PART XVII

ADMINISTRATION OF SOCIETIES

- 137. Registered office
- 138. Seal
- 139. Books and records
- 140. Audit and investigation by Registrar
- 141. When public accountant required as auditor
- 142. Power of Registrar to inspect societies' books, etc.
- 143. Yearly and other returns

PART XVIII

AMALGAMATION AND DIVISION OF SOCIETIES

Section

- 144. Amalgamation of societies
- 145. Division of societies

PART XIX

DISSOLUTION AND WINDING-UP

- 146. Dissolution of societies
- 147. Liquidation after cancellation of registration
- 148. Liquidator's powers

- 149. Power of Registrar to control liquidation
- 150. Appeals against decisions
- 151. Enforcement of decisions
- 152. Limitation of the jurisdiction of the civil court
- 153. Closure of liquidation

PART XX

DISPUTES

- 154. Settlement of disputes
- 155. Case stated on question of law

PART XXI

RULES

- 156. Purpose and contents of rules

PART XXII

ORGANISATION AND SUPERVISION

- 157. Assistance with co-operative organisation and education
- 158. Inspection and advisory services by Registrar, etc.
- 159. Registrar may supply by-laws
- 160. Inspection of records
- 161. Appointment of special directors and other officers

Section

- 162. Removal of directors and other officers
- 163. Appointment of administrator
- 164. Board of review

PART XXIII

MISCELLANEOUS

- 165. Recovery of sums due to Government
- 166. Special exemptions
- 167. Power to exempt societies from provisions of this Act

- 168. Prohibition of the use of the words "co-operative" or "credit union"
- 169. Companies Act not to apply
- 170. Offences and penalties
- 171. Misdealings with property
- 172. Repeal and savings

FIRST SCHEDULE-Powers of Societies

SECOND SCHEDULE-Matters required to be in the by-laws of a society

CHAPTER 397 CO-OPERATIVE SOCIETIES

An Act to provide for the registration, inspection, examination and supervision of co-operative societies which belong to the people who use their services, the control of which rests equally with all their members, and the gains from which are distributed among the members in proportion to the use they make of these services or their interest in their society; to repeal the Co-operative Societies Ordinance; to provide that co-operative societies registered under the Act repealed by this Act shall continue in existence and in operation as if registered under this Act; to encourage co-operative development by the provision of services to assist the organisation and operation of various kinds of co-operative societies to meet the economic and social needs of their members on a self-help basis; and to provide for all matters incidental to the foregoing.

63 of 1970
13 of 1994

[1st March, 1972]

PART I

PRELIMINARY

- 1. This Act may be cited as the Co-operative Societies Act. Short title
- 2. In this Act, unless the context otherwise requires- Interpretation

"agricultural product" means any product of agriculture, including grain

and seed, maize, groundnuts, cotton, tobacco and other field crops, livestock and livestock products, fruit and fruit products, vegetables and vegetable products, honey and any article wholly or partially processed or otherwise derived therefrom;

"agricultural requisites" means supplies needed for agricultural production, and includes building materials, fertiliser, dip, veterinary preparations, seed, animal feeding stuffs, breeding stock, draught animals, planting material, farm implements, hand tools, fencing materials, petroleum products, and other supplies and equipment normally used in agricultural production;

"board of directors" means the governing body of a society to whom the supervision and the direction of its affairs are entrusted by the members;

"by-laws" means the registered by-laws of a society, having been passed by the members and approved by the Registrar, and includes amendments thereto;

"co-operative principles", except as otherwise provided in this Act, means the following principles and methods used in the operation and administration of a society:

- (i) each member or delegate has one vote;
- (ii) there is no voting by proxy;
- (iii) race, creed or political beliefs are no bar to voluntary membership and, subject to this Act, membership is open to all who can use the services of a society;
- (iv) the services of a society are mainly for its members;
- (v) the dividend on share capital shall not exceed six *per centum per annum*;
- (vi) the services are available as nearly as possible at cost, allowing for the fact that, except where otherwise provided in this Act, the rules or the by-laws, the savings arising from yearly operations are paid to members, or members and non-member patrons, in the form of patronage bonus, in proportion to the use made of the services, or to the supply of labour or other contributions made by members and

non-member patrons;

"co-operative union" means a society, the membership of which is comprised of societies operating in the same general locality;

"delegate" means-

(a) a representative of a society, which is itself a member of another society, the meetings of which such representative has been elected or appointed to attend, and at which he is entitled to vote under the by-laws of that other society;

(b) a representative of members residing in a particular district, or of a particular group or class of members, who has received a mandate to vote at a meeting of their society from such members, group or class in accordance with the provisions of the by-laws of the society;

"dividend" means a member's share of the net surplus divided amongst the members in the same proportion as the paid-up share capital held by them in the society;

"federation" mean a society the membership of which is restricted to societies, co-operative unions and federations thereof;

"member" means a person who, or other society which, in terms of the by-laws of a society is entitled to vote at meetings of that society;

"natural product" means any product of forest, lake, river, mine or quarry, and any article wholly or partially derived therefrom, and includes fish and fish products, lumber and wood products, fuel and construction materials;

"net surplus" means such portion of the total income received by or accrued to a society during any year as remains after deductions have been made for all expenditure incurred during that year, and adequate provision has been made for depreciation, bad debts, tax liability and reserve funds;

"non-member patron" means a person, not being a member, who uses the services of a society to such extent as may be provided for in the by-laws;

"officer" means Chairman, Vice-Chairman, member of the board of directors or of any committee, Secretary, Treasurer, employee or other person, empowered under this Act, the rules or the by-laws to give direction or supervision respecting the business of a society;

"patronage bonus" means a share of the net surplus of a society divided amongst the members or, if the by-laws so provide, amongst the members and non-member patrons, in proportion to the use made of the services of the society, or the value of labour provided or other contributions made to the society;

"Registrar" means the Registrar of Co-operative Societies appointed under section *nine*;

"rules" means the rules made under this Act;

"society" means a co-operative society registered under this Act or heretofore registered as such under any former written law;

"special resolution" means a resolution passed by a three-quarter majority of the members, or delegates, or members and delegates, as the case may be, present at a meeting of a society called for the purpose, and of which at least twenty-one clear days' notice in writing was given together with a copy of the proposed resolution.

PART II

RESPONSIBILITIES OF THE MINISTER

3. The Minister shall take such measures as he deems advisable for the encouragement generally of co-operative development for economic, social and cultural purposes and human advancement on the basis of self-help and, in particular, but without limiting the generality of the foregoing, for the encouragement of the organisation of co-operative societies as a means of-

Encouragement
of co-operative
development

- (a) improving the economic situation of their members;
- (b) contributing to the economy an increased measure of democratic control of economic activity;
- (c) increasing personal and national capital resources by the

encouragement of thrift, the prevention of usury and the wise use of credit;

(d) increasing incomes and employment by a fuller utilisation of resources, including the bringing of new land into productive use, the marketing and processing of agricultural and natural products, the development of local industries and processing of raw materials;

(e) improving social and cultural conditions and, where appropriate, providing supplementary services in housing, health, education and communications;

(f) raising the level of general and technical knowledge of members of societies.

4. In encouraging co-operative development and in carrying out the provisions of this Act, the Minister shall take, authorise or approve such measures as he deems necessary to-

Responsibilities
of Minister

(a) assist the organisation of co-operative societies among persons or groups who desire to provide themselves with, or to market, commodities or services, or both, on a co-operative self-help basis;

(b) facilitate the financing of societies, where necessary for their establishment and operation, by the provision of, or arrangement for, loans, guarantees of loans, or otherwise;

(c) provide for such advice as may be necessary to assist officers and members of societies to achieve their objects;

(d) institute inquiry into and collect, classify and analyse information and statistics relating to societies and co-operative development;

(e) establish or facilitate the establishment of a research service or services for inquiry generally into the operation of societies, and for investigation and analysis of economic, social and other problems as may be deemed advisable to lead to the encouragement of new or improved methods of co-operative development, including-

(i) production of agricultural or natural products and the processing and marketing of such products;

(ii) industrial development, manufacturing and marketing and sale by wholesale;

(iii) credit, investment and business finance;

- (iv) wholesaling and retailing of goods and services;
- (v) community and welfare services on a co-operative basis;
- (f) issue from time to time such reports, circulars and other publications relating to societies and co-operative development as may be deemed advisable;
- (g) provide or authorise such other service as may be necessary in carrying out the provisions of this Act.

5. The Minister shall disseminate, or arrange for the dissemination of, information relating to co-operation and co-operative development in such manner and form as may be found best suited to promote interest in and understanding of co-operative principles and practices with a view to the encouragement of the organisation of co-operative societies based on self-help.

Information on co-operation

6. (1) All officers of societies to which this Act applies shall furnish the Minister with such information as he may from time to time require.

Persons required to furnish information to Minister

(2) An officer who fails to comply with a request of the Minister under subsection (1), or who knowingly makes a statement, false in any material particular, in any information furnished to the Minister, shall be guilty of an offence.

7. Within a period of six months after the close of the financial year, an annual report respecting the operations of societies registered under this Act shall be prepared under the direction of the Minister and included in the annual report of the Minister laid before the National Assembly.

Annual report on societies

PART III

PUBLIC OFFICERS

8. (1) There shall be a Director of Co-operative Societies for the purposes of this Act, who shall be a public officer and who shall be responsible for providing and administering the services required by societies for their organisation, registration, operation and advancement

Director

and for carrying out the provisions of this Act.

(2) There may be appointed a Deputy Director of Co-operative Societies and such other public officers as may be necessary to assist the Director in carrying out his functions.

9. (1) There shall be a Registrar of Co-operative Societies who shall be a public officer and who shall exercise such powers and perform such duties as are prescribed in this Act. Registrar

(2) There shall be a Deputy Registrar of Co-operative Societies (hereinafter referred to as the "Deputy Registrar") and one or more Assistant Registrars for the purposes of this Act, who shall be public officers and who shall exercise such functions and perform such duties as may be prescribed by or under this Act.

(3) The Registrar may, subject to the provisions of this Act and to the general or special directions of the Director of Co-operative Societies, delegate any of his functions under this Act to the Deputy Registrar or to an Assistant Registrar.

(4) Any power conferred or duty imposed by or under this Act on the Registrar, or delegated to him by the Director of Co-operative Societies, may be exercised or carried out by the Deputy Registrar if the Registrar is unable to exercise that power, or himself carry out that duty, due to illness or absence.

PART IV

REGISTRATION AND ORGANISATION OF CO-OPERATIVE SOCIETIES

10. (1) Any ten or more persons, or two or more societies, desiring to associate themselves together to form a society in accordance with co-operative principles, with or without capital divided into shares, may, on payment of the prescribed fee and subject to the approval of the Registrar, be registered under this Act with limited liability. Procedure for registration

(2) An application for registration as a society shall be made to the Registrar in the prescribed form and be subject to the rules.

(3) Where the application is made by two or more societies, at least two duly authorised officers of each society shall sign the application which shall be accompanied by the resolution of each society concerned approving the application for registration.

(4) Each application for registration shall be accompanied by copies of the by-laws of the proposed society.

11. (1) Before approving registration, the Registrar may require such additional information about the proposed society as he deems necessary, including- Requirements before registration

(a) the economic or other need for the organisation of the society;

(b) the educational and advisory work respecting co-operative principles and the organisation and operations already being carried on amongst the applicants for registration and other persons expected to become members;

(c) the number of persons expected to become members upon the commencement of operations;

(d) whether the capital to be furnished initially by the applicants for registration and other persons expected to become members is sufficient for the commencement of operations;

(e) the availability of officers capable of directing and managing the affairs of the society, and of keeping such records and books of account for the society as the Registrar may require.

(2) If, as a result of the information provided to him under subsection (1), the Registrar is of the opinion that the applicants for registration and other persons expected to become members require more educational and advisory work respecting co-operative principles and the organisation and operation of a society, or the expected membership appears to be too small for the satisfactory commencement of

operations, or more time is necessary to raise the capital initially required, or that more training is advisable for persons expected to become officers, he may delay his approval of registration in order to prescribe more educational and advisory work, or discussion of the objects of the society with more persons who could be expected to benefit from membership, or more time to raise the capital initially required, or more training, as the case may be.

(3) If, as a result of the information provided to him under subsection (1), or notwithstanding any action taken under subsection (2), the Registrar is of the opinion that registration is not economically advisable or he is otherwise unwilling to approve registration, he shall give specific reasons therefor to the Minister and to the applicants for registration.

(4) An appeal against refusal to register the society shall lie to the Minister within ninety days of such refusal.

12. (1) If the Registrar approves registration, he shall issue a certificate of registration to the society, together with a copy of the by-laws certified by him as having been duly approved and registered.

Certificate of
registration

(2) A certificate or registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered, unless it is proved that the registration of the society has been cancelled.

(3) No society shall be registered under a name identical with that of another society or so nearly resembling the same as to be likely to deceive.

(4) The word "limited" shall be the last word in the name of every society and, except as otherwise provided in this Act, the word "co-operative" shall form part of the name of every society.

13. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal and with limited liability, and with power to hold property, to enter into contracts, to institute and defend suits and other legal

Societies to be
bodies
corporate

proceedings, and to do all things necessary to achieve its objects in the exercise of the powers available to it under the provisions of this Act, the rules and its by-laws.

14. (1) A company registered under the Companies Act (or any Act which replaces it) may, by a special resolution as defined in that Act (or replacing enactment), determine to convert itself into a society.

Conversion of a
company into a
society.
Cap. 388

(2) Such a resolution shall be accompanied by copies of the by-laws of the proposed society therein referred to, and shall appoint ten persons, being members of the company, who together with the Secretary shall sign the by-laws, and who may either be authorised to accept any alterations made by the Registrar therein without further consultation with the company, or may be required to lay all such alterations before the company in general or special meeting as the resolution may direct.

(3) A copy of such resolution, signed by the Chairman of the meeting at which it was passed and the Secretary, shall, with the by-laws, be sent to the Registrar, who thereupon shall deal with the resolution as an application for registration of a society under this Act.

(4) After the receipt of such resolution and such by-laws and of such information as he may require under section *eleven*, the Registrar may-

(a) if satisfied that the company will be operated in accordance with co-operative principles, register the company as a society; or

(b) refuse registration, giving specific reasons therefor to the company and to the Minister as required under section *eleven*.

(5) An appeal against refusal to register the company as a society shall lie to the Minister within ninety days of such refusal.

(6) (a) Upon the registration of a company as a society, the Registrar shall issue a certificate of registration to the society together with a copy of the by-laws certified by him as having been duly approved and registered.

(b) A copy of such resolution under the seal of the company together with the certificate issued as aforesaid shall be sent by the company's secretary to the Registrar of Companies and, upon his registering that resolution and certificate, the conversion shall take place; the Registrar of Companies shall notify the said Secretary in writing of the date and time of this registration.

(c) The name under which any company is registered under these provisions as a society shall not include the word "company".

(d) Subject to paragraph (e), upon the conversion of a company into a society, the registration of the company as such shall become void and shall be cancelled by the Registrar of Companies.

(e) The registration of a company as a society shall not affect any right or claim for the time being subsisting against the company nor any penalty for the time being incurred by the company; and-

(i) for the purposes of enforcing any such right, claim or penalty, the company may be sued and proceeded against in the same manner as if it had not been registered as a society;

(ii) any such right or claim and the liability to any such penalty shall have priority as against the property of the society over all other rights or claims against or liabilities of the society.

15. Every member shall be individually liable to the creditors of a society for the debts and liabilities of the society in a sum not exceeding the amount, if any, unpaid on the shares allotted to him, if any, or on his membership fee, as the case may be, until the whole amount of his shares or membership fee has been paid up. Limited liability

16. Every society shall cause its registered name to be painted or affixed, and to be kept painted or affixed, in a conspicuous position and in letters easily legible, on the outside of its registered office and every other office or place in which the business of the society is carried on, and shall have that name engraved in legible characters on its seal, and mentioned in legible characters- Display of registered name

(a) in all notices, advertisements and other official publications of the society;

(b) in all business letters of the society;

- (c) in all bills of exchange, promissory notes, endorsements, cheques, and orders for money or goods, purporting to be signed by or on behalf of the society;
- (d) in all bills, invoices, receipts and letters of credit of the society.

- 17.** Notwithstanding the other provisions of this Act, a group of persons who desire to associate themselves together in trade or business primarily for gain, without provision for the distribution of profits amongst customers in proportion to patronage, shall not be registered as a society. Dealers or traders not to register under this Act
- 18.** Where the Registrar, after investigation, considers it to be in the interests of the members of a society or necessary to achieve the objects of a society, he may, by notice in writing served on the societies or society, as the case may be- Registrar may require societies to form or join a co-operative union
- (a) recommend or require any two or more societies to form and apply for the registration of a co-operative union; or
 - (b) recommend or require any society to join a co-operative union.
- 19.** Subject to this Act, the rules and the by-laws, a society shall have, as ancillary and incidental to the object or objects set forth in its by-laws, the powers contained in the First Schedule, but nothing shall preclude a society from including in its by-laws, subject to the approval of the Registrar, any powers in addition to, or from excluding or modifying, those mentioned in the First Schedule. Powers of societies
- 20.** The by-laws of every society shall include provision in respect of the matters mentioned in the Second Schedule. By-laws
- 21.** (1) The by-laws of a society may be amended by cancellation, alteration or addition thereto by a resolution of a two-thirds majority of members or delegates, or members and delegates, as the case may be, present at a duly called general meeting. Amendments to by-laws
- (2) Save as hereinafter provided, no amendment to the by-laws shall be valid until the amendment has been registered under this Act, for which purpose three copies of the amendment signed by the Chairman of the last-mentioned meeting and the Secretary shall be forwarded to the Registrar.

(3) If the Registrar is satisfied that the amendment is not contrary to this Act and the rules, and if he otherwise approves it, he may register the amendment.

(4) Where it is deemed expedient that the members or delegates, or members and delegates, to be present at a meeting of the society at which a proposed amendment to the by-laws is to be submitted for their approval, should take action at the same meeting towards implementing the proposed amendment, the Registrar may approve the proposed amendment prior to the meeting, and, if the proposed amendment is adopted as it stands, it shall have immediate force and effect:

Provided, however, that as soon as possible thereafter copies of the resolution containing the amendment shall be forwarded to the Registrar for registration in accordance with subsection (2).

(5) After approval by the Registrar, a copy of every amendment, certified under the hand of the Registrar as approved and registered, shall be returned by him to the society.

- | | |
|--|--|
| <p>22. Every society shall keep a copy of this Act, the rules, its by-laws and a list of its members open to inspection, free of charge, at all reasonable times at the registered office of the society.</p> | <p>Copy of Act, rules and by-laws to be open to inspection</p> |
| <p>23. (1) Every society which derives a surplus from its yearly transactions shall maintain a reserve fund, the constitution and operation of which shall be provided for in the by-laws.</p> | <p>Reserve fund and distribution of net surplus</p> |
| <p>(2) Except as otherwise provided in this Act, and unless the by-laws provide that the net surplus derived by a society from its operations shall be set aside in one or more reserve funds, or for the maintenance of further development of the services provided by the society, or donated to local organisations with objectives beneficial to the community, every society shall, after making the necessary provision for the reserve fund or funds, for any dividend payable on any share capital and for any amount for educational purposes, distribute such surplus, within a</p> | |

period of twelve months from the close of its financial year, as payment of patronage bonus in the manner provided for in its by-laws.

- | | |
|---|-----------------------------------|
| 24. The kinds of societies which may be formed and registered under the provisions of this Act are not restricted to the kinds of societies mentioned in the following Parts V to XII. | Kinds of societies not restricted |
|---|-----------------------------------|

PART V

SOCIETIES FOR RURAL DEVELOPMENT

- | | |
|--|------------------------|
| 25. A society may be registered primarily to undertake and carry on all kinds of business operations connected with the marketing, collecting, receiving, taking delivery of, buying, handling, feeding, fattening, finishing, slaughtering, preserving, harvesting, drying, processing, manufacturing, canning, cleaning, grading, storing, transporting, selling, or otherwise disposing of or utilising any agricultural product produced or delivered to it by its members or non-member patrons, or connected with the manufacturing or buying, selling or marketing of the by-products thereof. | Co-operative marketing |
|--|------------------------|

- | | |
|---|---|
| 26. A society may be registered primarily to undertake and carry on all kinds of business operations connected with the purchasing, procuring, processing, manufacturing, exchanging, hiring, dealing in and distributing agricultural requisites, consumer goods and household necessities for sale at retail to its members or non-member patrons: | Distribution of agricultural requisites, etc. |
|---|---|

Provided that where the society is a co-operative union or a federation, it may sell such agricultural requisites, consumer goods and household necessities at wholesale to its member societies.

- | | |
|---|----------------------|
| 27. (1) A society may be registered primarily for the purpose of providing farming services to its members, including- | Co-operative farming |
|---|----------------------|

(a) purchasing, taking on lease or otherwise acquiring, developing, maintaining and operating land as a farming enterprise on behalf of its members; or

(b) purchasing; taking on lease or otherwise acquiring land for

farming purposes and using such land by-

- (i) dividing a portion thereof amongst its members, by sale, lease or otherwise, for their individual use and operation as producers of agricultural products; and
- (ii) developing, maintaining and operating the remainder of such land as a farming enterprise on behalf of its members.

(2) In addition to the objects mentioned in paragraph (a) or (b) of subsection (1), a society registered for the purpose of providing farming services to its members may have one or more of the following further objects:

- (a) marketing agricultural products produced by the society on behalf of its members and produced by its members on their own account;
- (b) purchasing agricultural requisites, consumer goods and household necessities required by the society and its members;
- (c) encouraging thrift among its members by the acceptance of savings deposits in accordance with section *thirty-three*;
- (d) providing credit for its members in accordance with section *thirty-five*;
- (e) providing housing and services relating thereto for the use of its members.

28. A society may be registered to undertake and carry on all kinds of business and operations connected with the co-operative marketing of agricultural products as provided in section *twenty-five*, for the handling of agricultural requisites, consumer goods and household necessities as provided in section *twenty-six*, and for one or more of the objects listed in section *twenty-seven*.

Multi-purpose societies

29. A society marketing agricultural products, handling agricultural requisites or providing farming services to its members, may be appointed as agent of any marketing board or other authority established by law for the purpose of marketing agricultural products or distributing agricultural requisites.

Society as agent of marketing board

30. The by-laws of a society marketing agricultural products, handling agricultural requisites or providing farming services to its members may provide that, in lieu of the payment in cash of amounts deducted from the sale or resale price of agricultural products delivered to the society, or of a patronage bonus, the society may allot to its members shares of capital, and upon such allotment each member shall be deemed to have made an application for the said shares, and agreed to pay therefor by the application of such amounts or of such bonus towards the purchase price of such shares.

Allotment of shares in lieu of patronage bonus or other payment

31. The by-laws of a society marketing agricultural products, handling agricultural requisites or providing farming services to its members may provide that, in lieu of the payment in cash of amounts deducted from the sale or resale price of agricultural products delivered to the society, or of a patronage bonus, the society may require its members, without the completion of individual contracts, to undertake to make loans to the society from such deductions or patronage bonus, under such terms and conditions as are provided for in the by-laws, and such by-laws shall have the same effect as if each member had entered into a separate contract with the society and shall create a legal obligation on his part to make such loan, but only to the extent of such deductions or patronage bonus.

Borrowing of patronage bonus or other payment

32. (1) A society marketing agricultural products may, with the approval of the Registrar, which may be given generally or specifically, make and execute marketing contracts with its members, requiring the members to sell or deliver for sale, for any period of time specified therein, all or any part of their products or commodities specified in such contracts, exclusively to or through the society or any agencies created by the society.

Marketing contracts

(2) A contract made under this section may provide that the society may sell or resell the products delivered to it by its members with or without taking title thereto, and pay over to its members the sale or resale price after deducting an agreed commission.

(3) A marketing contract may provide for payment by the members to the society of specified sums as liquidated damages for any products or commodities sold, marketed or withheld by them in breach of the terms of the contract, and any such provision shall be valid and enforceable in

the courts.

(4) Except where the Registrar's approval has been given generally to a society in respect of a particular form of contract, every society entering into a contract under the provisions of subsection (1) shall, before the signing and execution of the contract, forward two copies of it to the Registrar who shall thereupon either indicate his disapproval thereof or endorse his approval on one copy and return it to the society.

(5) No contract entered into under this section shall be contested in any court on the ground that it constitutes a contract in restraint of trade.

33. (1) For the purpose of encouraging thrift amongst its members, a society which includes in its objects the marketing of agricultural products, the handling of agricultural requisites or the provision of farming services, may, subject to this Act and the rules, be authorised by its by-laws to accept interest-bearing savings deposits from its members.

Encouragement
of thrift

(2) Savings deposits may be made in such minimum and in such maximum amounts as may be prescribed in the by-laws.

(3) Savings deposits may be made-

(a) for an indefinite period but withdrawable by the member on application in writing and on giving such notice, if any, as may be required by the by-laws:

Provided that the board of directors may in any case require up to thirty days' notice in writing of the intention to withdraw, or such additional notice as may in any particular case be approved or required by the Registrar;

(b) for a stipulated term by agreement between the member and the society and on such conditions as may be prescribed in the by-laws.

(4) Moneys may be deposited by a member from his personal funds or by written order-

(a) upon the society to deduct and deposit in his savings account a

designated amount or amounts from payments due to him for agricultural products delivered by him to the society; or

(b) upon any marketing board or other organisation to deduct and deposit in his savings account with the society a designated amount or amounts from payments due to him for agricultural products delivered by him to, or under the authority of, such marketing board or other organisation.

(5) The rates of interest payable on savings deposits for an indefinite period and for a stipulated term respectively, shall be set from time to time by the board of directors, within such limits as may be prescribed by the rules, and approved by the Registrar.

(6) Moneys deposited in the society for a stipulated term shall not be withdrawable before maturity except in the case of the death or disability of the member, or his removal from the district served by the society and his desire to terminate his membership, or other emergency, but the board of directors may in any case require up to thirty days' notice in writing of the intention to withdraw the whole or part of such moneys, or such additional notice as may in any particular case be approved or required by the Registrar, and the rate of interest specified in any agreement respecting deposits for a stipulated term may be discounted in such manner as may be determined by the board of directors or as set out in the deposit agreement.

(7) No member shall place in a deposit account for a stipulated term, in one amount or in an amount additional to amounts already deposited by him, such sum as would cause the total amount of his money in such deposit account to exceed one-fifth of the total amount of all such deposits in the society at that time.

(8) A member depositing moneys with the society for a stipulated term may be required to maintain paid-up share capital in the society in such amount as may be designated in the by-laws.

(9) Subject to the approval of the board of directors, a member may assign his savings deposits as security for a loan from or through the society.

34. The Registrar may approve and register by-laws for the purposes mentioned in section *thirty-three* if he is satisfied that-

Registration of
by-laws to
encourage thrift

(a) the purpose of the by-laws has been discussed by the members in educational meetings;

(b) the society is in a good financial position or, if it is a new society, its registration is considered to be economically advisable;

(c) savings deposits and withdrawals therefrom will be recorded separately from other transactions of the society;

(d) adequate safe-keeping facilities and accounting services will be provided by the society;

(e) the society will furnish such returns respecting savings deposits as he may require;

(f) officers of the society responsible for funds have received such information and training as he deems necessary for the proper supervision and management of savings deposits.

35. (1) For the purpose of providing credit required by farmers, a society which includes in its objects the marketing of agricultural products, the handling of agricultural requisites or the provision of farming services may, subject to this Act and the rules, be authorised by its by-laws to grant credit or make loans to its members for such purposes and under such terms and conditions as may be prescribed in the by-laws.

Provision of
credit by
agricultural
societies

(2) Loans may be made by the society from its own funds or, under conditions prescribed in the by-laws, from the proceeds of loans made to the society by credit organisations or other persons.

(3) Any borrowing by the society for the purpose of making loans under subsection (2) shall be subject to the approval of the Registrar.

(4) A society may grant credit or make loans under this section-

(a) for productive purposes, including seasonal loans or advances for financing the production and marketing of agricultural products, for the purchase of agricultural requisites, for farm improvement, and for housing and building materials;

(b) for provident purposes, including the purchase of consumer goods and household necessities for the use of the borrower and his family, consolidation and repayment of debts, and payment of taxes, and for payments towards insurance, health and education;

(c) with the approval of the Registrar, to another society which is a member.

(5) The by-laws may prescribe the maximum credit or amount that may be lent to a borrower, the maximum period within which loans for varying purposes shall be repaid, and the maximum rate or rates of interest that may be charged for credit or loans.

(6) The society shall require such type of security from a borrower as the by-laws may prescribe or as may be approved by the board of directors:

Provided that no society shall lend money under this section on mortgage of any description of immovable property except with the permission of the Registrar.

(7) No credit or loan shall be made to a person who is not a member in good standing with the society.

36. (1) Subject to the provisions of this Act and the rules, the board of directors shall have general supervision of all credit and loans made by a society in accordance with section *thirty-five*, shall fix the amount of credit or loan in each case, shall determine the security required before the credit is granted or the loan is made, and shall fix the rate of interest.

Board of
directors to
supervise credit
and loans

(2) A majority of the members of the board of directors shall be present when an application for credit or a loan is under consideration, and the credit or loan applied for shall not be given or made unless the

application is approved by at least a majority of those present.

(3) No officer of the society shall be allowed to borrow or receive credit in excess of the sum of his shares in the society, his loan capital in the society, if any, and his savings deposits in the society, if any, assigned as security to the society, unless the application is approved, in the absence of the applicant, by a majority of the board of directors and also by the Registrar.

(4) The board of directors, when reviewing an application for a loan, shall consider-

- (a) the character of the applicant;
- (b) whether the loan is for a productive or provident purpose;
- (c) the ability of the applicant to repay the loan;
- (d) the availability to the applicant of technical advice respecting agricultural production and farm management practices if the loan is for a productive purpose;
- (e) the security to be given by the applicant, and whether one or more guarantors of the loan will be required.

(5) To encourage thrift, the board of directors may, as a condition of the loan being granted, require that the applicant agree, during the period within which the loan is to be repaid, to purchase shares in the society, or deposit moneys in a savings deposit account (if the society is permitted to accept savings deposits) in such amount or amounts as may be specified.

(6) A full and correct record shall be kept of all the proceedings of the board of directors in carrying out its duties under this section, and the record shall be available for inspection by the Registrar.

(7) The directors of a society shall examine regularly its credit and loan transactions and, if further such transactions are likely to impair the financial situation of the society, the directors shall direct the proper

officers to refuse further credit and withhold further loans for such period as the directors may determine.

- | | |
|--|---|
| <p>37. The Registrar may approve and register by-laws for the purposes mentioned in section <i>thirty-five</i> if satisfied that-</p> <ul style="list-style-type: none">(a) the purpose of the by-laws has been discussed by the members in educational meetings;(b) the society is in a good financial position or, if it is a new society, its registration is considered to be economically advisable;(c) the granting of credit and making of loans, their supervision and repayment will be recorded separately from other transactions of the society;(d) adequate safe-keeping facilities and accounting services will be provided by the society;(e) the society will furnish such returns respecting grants of credit and lending operations as he may require;(f) officers of the society responsible for the supervision of credit and loans have received such information and training as he deems necessary. | <p>Registration of by-laws for the provision of agricultural credit</p> |
| <p>38. A society with authority to provide and administer agricultural credit in accordance with section <i>thirty-five</i> may, by its by-laws, be authorised to accept interest-bearing savings deposits in accordance with section <i>thirty-three</i>.</p> | <p>A society may combine thrift services with the provision of credit</p> |
| <p>39. A society may be registered for one or more of the following principal objects and purposes:</p> <ul style="list-style-type: none">(a) providing, operating and maintaining farm machinery and other equipment for use by or on behalf of the members in the production of agricultural products;(b) storing, marketing or otherwise utilising agricultural products produced by members with the assistance of services provided by the society under paragraph (a);(c) handling agricultural requisites for the production of agricultural products produced by members with the assistance of services provided by the society under paragraph (a). | <p>Farm machinery and related services</p> |
| <p>40. A society may be registered to assist producers of livestock of</p> | <p>Assistance to</p> |

various kinds, including dairy cattle and poultry, with one or more of the following principal objects and purposes: livestock, dairy and poultry producers, etc.

- (a) providing artificial insemination or other breeding services for livestock owned by members;
- (b) assembling, transporting, selling by public auction or otherwise handling various kinds of livestock or poultry produced by members, and providing buildings and equipment required for such services;
- (c) purchasing or otherwise acquiring livestock or poultry for feeding or finishing by members on a contract or other basis;
- (d) purchasing or otherwise acquiring livestock or poultry as foundation, replacement or breeding stock for production by members;
- (e) establishing and maintaining central feeding stations for the use of members engaged in the production of livestock;
- (f) providing a hatching, brooding or raising station for the use of members engaged in poultry production;
- (g) purchasing, procuring or maintaining bees for the production of honey for the use by or on behalf of members;
- (h) purchasing, taking on lease or otherwise acquiring and maintaining land for the grazing of livestock of members;
- (i) purchasing, taking on lease or otherwise acquiring land for the production of fodder and feeding stuffs required by members engaged in the production of livestock or poultry;
- (j) purchasing, taking on lease or otherwise acquiring, maintaining and managing a livestock or poultry enterprise for the production of meat, milk and other dairy products, poultry and eggs, on behalf of its members;
- (k) contracting for or otherwise providing veterinary services to members engaged in the production of livestock or poultry, and fixing and collecting fees payable by members to the society to finance such services:

Provided that no society shall be registered with this object without the written approval of the Minister responsible for veterinary services.

41. A society may be registered for one or more of the following principal objects and purposes:

Land improvement services

- (a) the provision and maintenance of water supplies for household and farm use;
- (b) the provision and maintenance of water supplies for irrigation

purposes and the management of irrigation projects on behalf of members;

(c) maintaining and supervising an area of land for watershed development, flood control, drainage, soil erosion control, and crop rotation.

42. (1) To achieve its objects a society registered with any of the objects mentioned in sections *thirty-nine* to *forty-one* inclusive, may provide in its by-laws-

Special provisions in the by-laws

(a) that each member undertake to lend such funds and furnish such fixed or working capital for the society as may be designated from time to time by the directors;

(b) that each member undertake to contribute such labour or other services as may be necessary for the operation of the society.

(2) Where the objects of a society include the provision of grazing land in accordance with paragraph (h) of section *forty*, or the production of fodder and feeding stuffs in accordance with paragraph (i) of the same section, the by-laws may authorise the directors to assign quotas for the number of head of livestock to be grazed by each member on land maintained by the society, or for the provision of fodder and feeding stuffs sold to or otherwise provided to each member from such land.

(3) Where the objects of a society include those mentioned in section *forty* or *forty-one*, the by-laws may provide that no dividend shall be paid to its members on share capital, that no patronage bonus shall be paid, and that any net surplus shall be transferred to reserve to meet unforeseen losses or other contingencies, or to maintain and improve the services provided by the society.

43. A society may be registered for the principal object and purpose of contracting with, or arranging with, any technically qualified person or organisation to provide advisory and supervisory services to assist members with farm management practices connected with the farm operated by each, and to collect fees from members for payment by the society for such advisory or supervisory services.

Advisory or supervisory services for farmers

44. A society may be registered for the principal object and purpose of

Storage of

<p>purchasing, taking on lease, building or otherwise acquiring, operating and maintaining local, district or regional warehouses for storage of agricultural products produced by its members for their own use or for sale; and purchasing, hiring or otherwise acquiring and operating equipment for the assembling, cleaning and transporting of such products.</p>	<p>agricultural products</p>
---	------------------------------

<p>45. A society may be registered for the principal object and purpose of purchasing, hiring or otherwise acquiring, operating and maintaining lorries, trucks and other equipment required for assembling and transporting to market, agricultural products produced by its members, and for the assembling and transporting of agricultural requisites and other goods required by its members.</p>	<p>Transportation of agricultural products and farm supplies</p>
---	--

PART VI

CO-OPERATIVE SERVICES FOR PRODUCERS OF NATURAL PRODUCTS

<p>46. (1) A society may be registered having as its principal objects and purposes, or any of them, the production, processing, utilisation or marketing of natural products, and rendering to its members services ancillary to such objects, including-</p>	<p>Co-operative services for producers of natural products</p>
---	--

(a) purchasing, hiring or otherwise acquiring, maintaining and operating boats, motors, nets and other equipment to be used in group fishing by members, or by each member on an individual basis, and the marketing of fish and fish products;

(b) obtaining or providing equipment, contracts and management services for the production and marketing of pulp wood, fuel wood, timber, lumber and other forest products, or products derived wholly or partially there from;

<p>(c) subject to the provisions of the Mines and Minerals Act, obtaining prospecting, exploration and mining licences and obtaining or providing equipment, contracts and management services for the development, utilisation and disposal of the products of any mine.</p>	<p>Cap. 213</p>
---	-----------------

(2) A society registered under this section which includes amongst its

objects the marketing of natural products for its members, may-

(a) be appointed as agent of any marketing board or other authority established by law for the marketing and distribution of products which the society may be authorised to market under its by-laws;

(b) make and execute marketing contracts requiring its members to sell or deliver for sale, for any period of time specified therein, all or any part of their products as specified in such contracts exclusively to or through the society or any agencies created by the society, in which case the provisions of section *thirty-two* shall apply to any such marketing contracts.

PART VII

BUILDING CONSTRUCTION AND HOUSING SOCIETIES

47. A building construction society may be registered for the following principal objects and purposes:

Building construction society

(a) building houses and flats for individual or family use, and other buildings for industrial, business or public use, either for sale by the society itself or under agreement negotiated with a municipality or other public body or authority performing a function of government or providing a public service, or with a company, society, association, partnership or other organisation or person;

(b) purchasing, manufacturing, processing or otherwise providing materials for the construction of buildings, or contracting for architectural services or for the installation of utilities.

48. A housing society may be registered for the following principal objects and purposes:

Housing society

(a) building or otherwise acquiring houses or flats for sale to its members for their individual ownership and use;

(b) building or otherwise acquiring, maintaining and managing houses or flats for lease to its members;

(c) purchasing and site planning land for sale or lease to its members for houses or blocks of flats.

49. (1) A building construction society may, if so provided in its by-laws, make loans or advances to its members for the purchase of tools, materials and equipment for their individual use in connection with building projects undertaken in accordance with section *forty-seven* and sell to its members consumer goods and household necessities.

Special powers

(2) A housing society may, if so provided in its by-laws, accumulate the savings of its members for the building and management of houses and flats, the ownership of which is vested in the society, or for the making of loans to its members for the building, purchasing or maintenance of houses or flats, or for other purposes mentioned in section *forty-eight*.

(3) A housing society may, if so provided in its by-laws, raise additional funds by borrowing for a period not exceeding thirty years for the building of houses and flats, the ownership of which is vested in the society, or for making loans to its members for the building of houses or flats, or for the purchasing and maintenance of houses or flats acquired by them from the society, or for other objects mentioned in section *forty-eight*.

50. No building construction, or housing, society shall commence operations until it has furnished satisfactory evidence to the Registrar that the members have received the training required for the satisfactory completion of the building projects which the society expects to undertake, and that the capital furnished by its members is equal to such amount as may initially be prescribed by the by-laws.

Commencement of operations

51. The by-laws of a building construction, or housing, society shall, where applicable, provide-

Special features

(a) the manner in which each member is to furnish capital for the purposes of the society, and the amounts thereof;

(b) the manner in which a member may be required to pay for services furnished by the society, whether in the form of rent, purchase price of housing, or payment for other services;

(c) the manner in which the furnishing of labour services or materials by a member may be valued in payment for any services

received by him through the society.

52. Every housing society shall, before the distribution of any net surplus, set aside an amount annually in the form of a sinking fund for the repayment of any bonds, debentures or other funds borrowed in accordance with subsection (3) of section <i>forty-nine</i> , both as to principal and interest.	Sinking fund
---	--------------

PART VIII

CREDIT UNIONS

53. A co-operative savings and credit society, in this Part referred to as a credit union, may be registered for the promotion of thrift among its members and the creation of a source of credit for its members at controlled rates of interest, exclusively for provident or productive purposes.	Objects of a credit union
---	---------------------------

54. One or more of the words "savings", "thrift" and "credit" shall form part of the name of every society registered exclusively for the purposes mentioned in section <i>fifty-three</i> , and, with the approval of the Registrar, the word "co-operative" may be omitted from the registered name.	Name
---	------

55. Subject to the provisions of section <i>fifty-six</i> , the membership of a credit union shall be drawn from groups of persons having a common bond of occupation or association, or from groups living within a well-defined neighbourhood or community, or within a rural or urban district.	Membership generally
---	----------------------

56. (1) A credit union may, with the approval of the Registrar, admit as members another credit union or other society and any of the following organisations:	Membership of certain organisations
---	-------------------------------------

(a) a municipality or other public body performing a function of government or providing a public service;

(b) a religious organisation;

(c) a labour organisation, an agricultural organisation, or a benevolent or fraternal organisation;

(d) an organisation operated exclusively for charitable, educational or community welfare purposes, no part of the income of which is payable to or otherwise available for the personal benefit of any proprietor, member or shareholder thereof.

(2) A society, municipality or other organisation mentioned in subsection (1), which is a member of a credit union, may vote at meetings of the credit union by a duly appointed delegate in accordance with the by-laws.

(3) The terms and conditions under which a member society or organisation may obtain loans from a credit union shall be set forth in the by-laws, and shall not be inconsistent with the provisions of this Act, and the total amount of all loans made by the credit union to member societies or organisations shall not at any time exceed an amount equivalent to one-quarter of the combined paid-up capital and deposits of the credit union.

(4) Except with the approval of the Registrar, no credit union shall admit to membership another credit union or society or other organisation unless their membership is drawn from the same general group as that composing the membership of the credit union.

57. For the purposes of carrying out its objects every credit union may, subject to the provisions of this Act and the rules-

Powers of a
credit union
Cap. 412

(a) receive the savings of its members as payments on shares and as deposits, either in individual or in joint accounts, and receive deposits from other societies, the Government of Zambia, or any department, board, bureau or agency thereof, any municipality or statutory authority performing a function of government or providing a public service, and any company, the majority of the shareholders of which are members of the credit union;

(b) make loans to its members for provident or productive purposes;

(c) deposit money in commercial banks in Zambia, the Post Office Savings Bank, building societies registered under the Building Societies Act, loan companies and trust companies authorised to receive money on deposit, and with any federation registered under Part XII and

authorised to receive money on deposit;

(d) invest in any stocks, bonds or securities of the Government of Zambia, and, with the approval of the Registrar, to an extent not exceeding one-quarter of its capital, in paid-up shares of other credit unions or in securities issued by and secured by first mortgage on immovable property of a society, or to an extent not exceeding one-half of its capital in paid-up shares of any federation registered under Part XII with objects of making loans to and accepting deposits from its member societies:

Provided that the total amount of investments made by a credit union under this paragraph, other than in stocks, bonds and securities of the Government of Zambia, shall not exceed one-half of its capital;

(e) borrow money as provided by section *fifty-eight*.

58. (1) Subject to the approval of the Registrar, a credit union may borrow-

Borrowing
powers of a
credit union

(a) upon a vote of at least three-fourths of the members of the board of directors-

(i) moneys not exceeding in the aggregate one-quarter of its combined capital, surplus and deposits; or

(ii) moneys not exceeding in the aggregate an amount equal to the total of the market value of stocks, bonds and securities of the Government of Zambia held by the credit union, or an amount equal to the total value of the unencumbered shares and deposits for a stipulated term held by the credit union in any federation registered under Part XII with objects to lend money to and accept deposits from member societies, whichever such amount is the greater; or

(b) upon a special resolution passed by the members of the credit union, approving a recommendation of at least three-quarters of the members of the board of directors, additional moneys from time to time, so long as the balance owing by the credit union in respect of all moneys borrowed at no time exceeds one-half of its combined capital, surplus and deposits.

(2) The Registrar shall review annually the borrowing of a credit union under subsection (1) and may at any time withdraw his approval of further borrowings under that subsection.

(3) A credit union may, with the approval of the Registrar, charge, hypothecate, mortgage or pledge its immovable or movable property, rights and powers, undertakings, franchises, book debts and unpaid calls of the credit union, to secure any liability for the repayment of moneys borrowed under subsection (1).

59. No credit union shall commence lending operations until it has furnished satisfactory evidence to the Registrar that such number of members as he may specify have subscribed for the minimum number of shares prescribed in the by-laws for each member, and have made the payments initially required thereon.

Commencement
of lending
operations

60. A credit union may, with the approval of the Registrar, for its purposes hold, purchase or take on lease in its own name, and sell, exchange, mortgage or lease, any land or buildings.

Land and
buildings

61. (1) Subject to the provisions of subsections (2) and (3), at the first general meeting held after the receipt of its certificate of registration a credit union shall elect-

Election and
appointment of
officers

(a) a board of directors of not less than five in number;

(b) a credit committee of not less than three members (unless the by-laws provide that the credit committee shall be appointed by the board of directors);

(c) a supervisory committee of three members (unless the by-laws provide that one member of the supervisory committee shall be appointed by the board of directors).

(2) No employee of a credit union, other than the Secretary, shall be a director.

(3) No director, nor any member of the credit committee, nor any employee of the credit union, shall be a member of the supervisory committee.

62. In addition to such other duties as are imposed by this Act and the

Special duties

rules, the board of directors of a credit union shall-

of directors

- (a) determine the maximum individual shareholdings, the maximum individual loans and the aggregate amount of such loans which the credit union may make from time to time within the limits laid down in the by-laws;
- (b) determine the interest rates on loans and deposits;
- (c) declare dividends; and
- (d) make and have charge of the investments of the credit union, other than loans to members.

63. (1) Subject to the provisions of sections *sixty-eight* and *sixty-nine*, the credit committee of a credit union shall have the general supervision of all loans to members and, subject to any general order of the board of directors, the provisions of this Act and the rules, shall fix the amount of each loan.

Jurisdiction of
credit
committee

(2) A majority of the credit committee shall be present when an application for a loan is under consideration and the loan applied for shall not be made unless the application is approved by a majority of the members of the committee present.

(3) A full and correct record shall be kept of all proceedings of the credit committee in carrying out its duties, and the record shall be available for inspection by or under the direction of the Registrar.

64. (1) Every loan made by a credit union shall be for a provident or productive purpose.

Loans by credit
unions

(2) Every application for a loan shall be on a form provided by the credit committee, and shall set forth the purpose for which the loan is desired, the security, if any, offered and such other information as may be required by the committee.

(3) The credit committee shall inquire carefully into the character and the financial conditions of each applicant for a loan and his sureties or guarantors, if any, in order to determine his ability to repay the loan, and shall determine whether the loan applied for is for a provident or productive purpose and will be of probable benefit to the borrower.

(4) Except for loans of such small amounts as may be prescribed in the rules, the credit committee shall require security to be given on all loans and shall determine the particular security to be taken in each case.

(5) An assignment of shares or of deposits, or a negotiable instrument endorsed by a guarantor, may be accepted as security for a loan.

(6) The security for a loan shall be in the possession, or within the control, of the credit union before the loan is made, and where security covering immovable or movable property is required for the purpose of securing the repayment of a loan, the proceeds of the loan shall not be made available to the applicant until all documents necessary to establish the claim of the credit union on the security in case of default have been duly executed and, if so required, registered.

(7) Notwithstanding the provisions of subsection (6), the lending of money on mortgage of any description of immovable property shall be subject to the approval of the Registrar.

(8) Where more loan applications are pending than can be granted by the credit union from the funds available, preference shall be given by the credit committee to the applicants for the smaller loans in the order received if the need for the loan and the security offered compare favourably with the need and the security offered with respect to applications for larger loans.

65. (1) No loan shall be made by a credit union if it would cause the borrower to become indebted to the credit union for an amount in the aggregate of all loans made by the credit union to the borrower, in excess of eight per centum of its paid-up capital, surplus and deposits, or in excess of such lesser percentage as may be provided in the by-laws.

Maximum of
loans to a
member

(2) Notwithstanding the provisions of subsection (1), the by-laws of a credit union may authorise the making of loans for amounts in excess of eight per centum of its paid-up capital, surplus and deposits, to a municipality, or to a statutory body performing a function of government or providing a public service, or to a society:

Provided that the total of all loans made to all such borrowers shall not at

any time exceed an amount equivalent to one-quarter of its paid-up capital, surplus and deposits.

66. A credit union shall not, without the approval of the Registrar, make any, or any further, loans if the aggregate of its reserves consisting of cash on hand and on deposit with a bank, or other organisation authorised to accept money on deposit, is less than ten per centum of its combined paid-up capital and deposits. No loans in certain cases

67. (1) Subject to its by-laws, and it having such minimum amount of paid-up capital, surplus and deposits as shall be prescribed in the rules, a credit union may make loans- Restrictions on making loans in certain cases

(a) for the purchase of farm land for the personal use of the borrower, and for the purchase or erection of buildings necessary for the conduct of farming operations on such land;

(b) for the purchase or erection of a dwelling-house or other buildings for the personal use of the borrower and the land on which such dwelling-house or other buildings are situated or are to be erected;

(c) for the purchase of land or the purchase or erection of buildings required for use in the operation of a business of which the borrower is the sole owner or proprietor, whose total assets before the loan is made do not exceed such amount as shall be prescribed in the rules;

(d) where the borrower is a society, for the purchase of land, or the purchase or erection of buildings, required for the use of that society, if the total assets of the society, before the loan is made, do not exceed such amount as may be prescribed in the rules.

(2) No loan shall be made by a credit union for financing the operation of a business except for such purposes and under such conditions as shall be prescribed in the rules.

(3) The total amount of loans made by a credit union in accordance with this section shall not at any time exceed an amount equivalent to one-quarter of its paid-up capital, surplus and deposits.

68. An application for a loan under section *sixty-seven* shall be Approval of

considered by, and shall require the approval by majority vote of, the following persons meeting together: loans for certain purposes

- (a) a majority of the members of the credit committee; and
- (b) two or more directors; and
- (c) one member of the supervisory committee.

69. No officer of a credit union shall be allowed to borrow in excess of the value of his shares and deposits, assigned as security to the credit union, and the market value of any stock, bonds or securities of the Government of Zambia held by him and so assigned, unless the application is approved by a majority vote, taken in the absence of the applicant, of the following persons meeting together: Restrictions on loans to officers

- (a) a majority of the members of the credit committee; and
- (b) two or more directors; and
- (c) one member of the supervisory committee.

70. Subject to the provisions of section *fifty-seven*, no credit union shall lend money to, or accept deposits from, a person who is not a member of the credit union. Prohibitions

71. (1) No officer or employee of a credit union shall lend money from the funds of the credit union to an applicant for a loan unless the application and loan have been approved as required by this Act. Un-authorised loans prohibited

(2) An officer or employee who contravenes this section is guilty of an offence.

72. The interest rates on loans made by a credit union shall not exceed one per centum per month on unpaid balances. Rates of interest on loans

73. The credit committee shall report-

- (a) at least monthly to the board of directors regarding the number of loans made during the period under review, the amount lent, renewals of loans granted, if any, the rate of interest where the rate varies between different types and classes of loans, and the purposes for which loans were made;
- (b) to the annual general meeting respecting the work of the

Reports of credit committee

committee during the preceding year, and shall provide thereat a summary showing the purposes for which loans were made but without disclosing the name of any borrower.

74. The supervisory committee of a credit union shall-

Duties of
supervisory
committee

- (a) make regular examinations of the affairs of the credit union;
- (b) require at least one of its members to sign the monthly or other financial statement prepared by the treasurer;
- (c) unless an auditor of the credit union has been appointed by or with the approval of the Registrar, make an annual audit and submit a report thereon to the annual general meeting signed by at least two members of the committee;
- (d) fill any vacancy in its membership until the next annual general meeting;
- (e) if approved by unanimous vote of all members of the committee, suspend any officer of the credit union and call a meeting of the credit union to consider the report of the committee on the suspension;
- (f) call a special meeting of the credit union to consider any matters which, in the opinion of the committee, should be placed before the credit union;
- (g) send to the Registrar within such period of time and in such form as he may require, details of all examinations made by the committee in accordance with this section;
- (h) maintain a full and correct record of all its examinations and proceedings undertaken in accordance with the provisions of this Act and make the record available for inspection by or under the direction of the Registrar.

75. (1) Where the combined share capital and deposits of a credit union exceed such an amount as shall be prescribed from time to time by the Minister by statutory order, the supervisory committee shall request the board of directors to engage as auditor, with the approval of the Registrar, a person publicly carrying on the profession of accountant in Zambia to conduct the annual audit of the books and accounts.

Engagement of
auditor for a
credit union

(2) When an auditor is so engaged, the supervisory committee shall submit the auditor's report to the next annual general meeting.

76. (1) Shares in a credit union may be paid for by instalments at the

Shares in credit

times and in the manner determined by the by-laws.

union

(2) The by-laws may require each member to subscribe for such minimum number of shares as may be designated in the by-laws.

(3) After a member has paid for his initial membership share and for such minimum number of shares as may be prescribed pursuant to subsection (2), he may, unless the directors decide otherwise, continue to make payment for additional shares without being required to sign a written application to purchase such additional shares:

Provided that no member, other than a society, may hold more than one-fifth of the shares of a credit union or such lesser amount as the by-laws may specify.

(4) Moneys paid for or on account of shares may be withdrawn on application being made in writing on any day when the registered office of the credit union is open for business, but the board of directors may in any case require up to ninety days' notice of intention to withdraw the whole or any part of any such moneys, or such additional notice as may in any particular case be required by, or approved by, the Registrar.

77. (1) A member may deposit moneys in a deposit account in a credit union in such minimum amounts as may be prescribed in the by-laws.

Members'
deposits and
withdrawals

(2) If permitted by the by-laws, a member may, by agreement with the credit union, deposit moneys in an account with a credit union for a stipulated term, for such minimum and maximum periods and subject to such other conditions as may be prescribed in the by-laws.

(3) Moneys deposited by a member in a credit union for a stipulated term shall be in such amounts as may be agreed to by the credit union:

Provided that the aggregate of all amounts received on deposit for a stipulated term shall not at any time exceed the amount of the paid-up share capital of the credit union.

(4) Moneys deposited in the credit union pursuant to subsection (1) may be withdrawn on any day the credit union is open for business:

Provided that-

- (i) the board of directors may in any case require up to thirty days' notice in writing of the intention to withdraw the whole or any part of such moneys, or such additional notice as may in any particular case be required by, or approved by, the Registrar;
- (ii) if moneys deposited for a stipulated term pursuant to subsection (2) are withdrawn before maturity, the rate of interest fixed in the deposit agreement may be discounted in such manner as may be determined by the board of directors or as may be specified in the deposit agreement.

78. (1) Every credit union shall maintain a reserve to meet withdrawals of moneys in share and deposit accounts, consisting of cash on hand, or in a bank or other organisation authorised by law to accept moneys on deposit, and such reserve shall not, at the end of any calendar month, be less than ten per centum of the liabilities of the credit union to its members in respect of shares and deposits at that time. Cash reserve to meet withdrawals

(2) Cash may only be kept on hand by a credit union in accordance with the conditions respecting safe-keeping facilities, insurance and other safeguards prescribed in the rules and approved in the case of each credit union by the Registrar.

79. (1) When determining the net surplus made by a credit union, the board of directors shall deduct and set aside annually in a reserve fund against uncollectable loans and probable future losses such sum as shall be equal to at least twenty per centum of the year's surplus, until the reserve fund is equal to, and remains equal to, at least ten per centum of the outstanding loans repayable to the credit union, or to such other greater amount as may be prescribed in the rules or the by-laws. Distribution of net surplus of credit union

(2) After determining the net surplus, the board of directors of a credit union shall present to the annual general meeting a declaration respecting the distribution of the net surplus, which may provide-

- (a) that a dividend of a specified amount not exceeding six per

centum per annum be paid to the members on all fully paid-up shares as shown by the books of the credit union at the end of the preceding financial year, or held by a member for not less than such part of the preceding financial year as may be prescribed in the by-laws;

(b) that there be set aside, if the by-laws so provide, a specified amount not exceeding five per centum of the net surplus, to be used for such educational purposes as the directors may determine;

(c) that the remainder of the surplus, if any, be divided amongst the members as a borrower dividend in proportion to the amount of interest paid by them to the credit union on all loans or on specified classes of loans during the preceding financial year.

PART IX

ARTISANS', CRAFTSMEN'S AND CONTRACTING SOCIETIES

80. A society may be registered for the following principal objects and purposes, or any of them:

(a) producing, preparing, adapting, processing and manufacturing goods, wares and merchandise from materials of every description, for sale or under contract;

Production,
manufacture
and sale of
goods

(b) undertaking contracts or sub-contracts, by the provision of labour and technical services, materials and equipment, for land clearance or reclamation, road construction, the construction of industrial plants, public utilities or facilities for the development of natural resources, and for furnishing services for the maintenance of buildings, industrial plants and sites, mines and public utilities;

(c) providing all necessary materials, equipment, facilities and services to enable members and their families to produce, prepare, adapt or process goods, wares and merchandise in their homes, either for individual sale by each member or for sale by or through the society;

(d) rendering services to its members and non-member patrons as contractors, or as producers, processors, and manufacturers of goods, wares and merchandise, which are ancillary to their operations or activities.

81. To achieve its objects a society registered in accordance with

Special

section *eighty* may make provision in its by-laws regarding-

provisions in
the by-laws

- (a) the extent of the liability of each member to lend funds and to furnish fixed working capital for the society;
- (b) the extent to which each member shall undertake by contract or otherwise to contribute labour or other services necessary for the operation of the society;
- (c) the conditions under which the society may make loans or advances to members to finance their work;
- (d) the sale of consumer goods and household necessities to members.

PART X

CONSUMERS' SOCIETIES

82. (1) A society may be registered for the principal purpose of purchasing, procuring, processing, manufacturing, exchanging, hiring and dealing in goods, wares and merchandise, including foodstuffs, clothing, household goods, fuel and other necessities of all kinds for individual or family consumption or use, as well as agricultural requisites, for sale at retail to its members and non-member patrons.

Consumers'
societies

(2) The membership of a consumers' society may be limited to persons living within a well-defined neighbourhood or community, or within an urban or rural district.

83. To achieve its objects a consumers' society may provide in its by-laws-

Special
provisions in
the by-laws

- (a) that no goods be sold on credit, or alternatively the conditions and restrictions to which the sale of goods on credit shall be subject;
- (b) that in lieu of the payment in cash of patronage bonus due to a member, the directors may allot to him shares in the society in the manner and to the number mentioned in the by-laws, and that, upon such allotment, such member shall be deemed to have made an application for such shares, and shall be under an obligation to pay therefor out of the patronage bonus due to him, but only to that extent;
- (c) that in lieu of payments of patronage bonus in cash, the society

may require its members, without the completion of individual contracts, to undertake to make loans to the society from such patronage bonus for such purposes and under such conditions as are provided in the by-laws, which shall have the same effect as if each member had entered into a separate contract with the society, and shall create a legal obligation on the part of each member to make such loans, but only to the extent of such patronage bonus.

84. (1) The board of directors of a consumers' society shall examine regularly the condition of the society's business by requiring the proper officers to furnish during every financial year, monthly or quarterly, or at such other times as the directors may determine, a report disclosing the results of the operations of the society during a specified period, including information respecting accounts receivable and accounts payable, other assets and liabilities, income and expenses, purchases and sales, and a comparison of such information with the corresponding period of the previous financial year, for the purpose of enabling the directors to determine the progress being made by the society in achieving its objects.

Special responsibilities of directors of a consumers' society

(2) The directors shall examine regularly all credit or hire-purchase transactions to determine whether or not they are in conformity with the by-laws of the society, and if, in the opinion of the directors, such transactions are likely to impair the financial situation of the society, the directors shall direct the proper officers to refuse further credit and refrain from entering into further hire-purchase transactions for such period as the directors may determine.

85. No officer or employee of a consumers' society acting on its behalf shall purchase or sell goods on credit except in accordance with instructions given by the board of directors.

Credit controlled by directors

86. A consumers' society may provide in its by-laws that no member shall be eligible for election as a member of the board of directors if any amount owing by him to the society is in arrear, or if he has failed to obtain or purchase from the society during its preceding financial year, goods, wares, merchandise or supplies to the value stipulated in the by-laws.

Qualifications for election in certain cases

87. Where a consumers' society has for its objects the providing of other services to its members, or members and non-member patrons, this

Application of Part X

Part shall nevertheless apply to that society with respect to the purchase and sale of goods, wares and merchandise, or agricultural requisites, if any, at retail.

PART XI

COMMUNITY SERVICE SOCIETIES

- 88.** A society may be registered for the benefit of the community in which its members reside with one or more of the following objects:
- (a) operating and maintaining a public or community hall or community centre, a recreational ground or any other facilities solely for health, community welfare, civic improvement, public entertainment, cultural activities or recreation; or
- (b) providing services for procuring health care, or other services of a social or educational nature to promote occupational or community group welfare.
- 89.** (1) A society registered under section *eighty-eight* shall not pay a dividend or patronage bonus, and no part of the net surplus arising from the yearly operations of the society shall be paid to any member or patron.
- (2) Any net surplus arising from the yearly operations of the society shall be set aside as a reserve fund for unforeseen losses or other contingencies, or for the maintenance or further development of the services provided by the society, or the directors, if so authorised by the annual general meeting and permitted by the by-laws, may donate the net surplus, in whole or in part, to one or more local organisations with objectives beneficial to the community.
- 90.** Where a community service society is to be registered under this Part for the main purpose of contracting for or otherwise arranging for the payment of medical or hospital or nursing services on behalf of its members, and collecting premiums assessed upon its members for payment by the society to persons or organisations providing these services, such society shall not be registered without the written approval of the Minister in charge of health services.
- Community buildings, facilities or services
- No dividends on capital or patronage bonus
- Provision of health services

PART XII

FEDERATIONS

91. A federation of societies, or of co-operative unions, or of societies and co-operative unions, may be registered as a society under this Act for one or more of the following purposes: Objects

(a) carrying on any co-operative enterprise envisaged by this Act, and, without limiting the generality of the foregoing, providing facilities for-

(i) processing and marketing agricultural products or natural products;

(ii) procuring, manufacturing and selling agricultural requisites and consumer goods at wholesale;

(iii) establishing and operating a co-operative savings and credit service for member societies;

(iv) providing management and other services required by building construction or housing societies;

(v) managing, supervising and co-ordinating activities of farming societies and other societies providing special production services to agriculturists;

(vi) acquiring, maintaining and operating buildings and equipment for the assembling, warehousing and transporting of agricultural products;

(vii) operating services for the transportation of agricultural products and other commodities;

(b) carrying on, encouraging and assisting educational and advisory work relating to co-operative enterprise, and, without limiting the generality of the foregoing, establishing and operating a college or institute for education and training in co-operative principles and operating methods, operating district or regional training schools for officers and members of co-operative societies, providing

correspondence courses regarding co-operative principles and operating methods and providing information on co-operative principles and practices to youth groups;

(c) rendering services designed to ensure efficiency and uniformity in the conduct of the business of its member societies, standardising their book-keeping, accounting and other procedures, and providing an auditing service;

(d) reducing operating costs by arranging for group bonding of co-operative society employees, and purchasing book-keeping and other supplies for sale to its members;

(e) printing, publishing and circulating any newspaper or other publication designed to foster or increase interest in co-operative enterprises, principles and practices.

92. The Registrar may, in his discretion, dispense with the requirement that the word "co-operative" shall form part of the name of a society, when such society is a federation. Use of the word "co-operative"

PART XIII

MEMBERSHIP

93. Subject to the provisions of this Act, membership of a society shall be governed by its by-laws, but in no case shall a society fix any limit to the number of its members. Membership governed by by-laws

94. (1) Each applicant for the registration of a new society who has subscribed for one share in the society or who has paid the membership fee, if any, shall be deemed to have agreed to become a member of the society, and his name shall, upon its registration, be entered in the register of members. Who may be members

(2) No person, other than those mentioned in subsection (1), shall become a member of a society until his written application for membership has been approved by resolution of the board of directors and recorded in the minutes.

(3) Each applicant for membership shall be notified in writing that his

application has been approved or has not been approved.

(4) Unless the by-laws provide to the contrary, a person of the age of sixteen years may become a member of a society, but such person shall not be eligible to act as a member of the board of directors or of any committee of the society until he has reached the age of twenty-one years.

(5) An applicant, other than another society or other organisation, shall not be admitted to membership unless he is resident within or occupies land within the society's area of operation as described in its by-laws.

95. (1) If so provided in its by-laws, a society may receive moneys on share account, or on deposit account, from or for the benefit of a minor, and it shall be lawful for the society to pay such minor the dividend or interest which may become due on any such shares or deposits. Rights of minors

(2) Any payment or deposit made on behalf of a minor pursuant to subsection (1) may, together with any dividend or interest, be paid to the guardian of that minor for the use of the minor.

(3) The receipt of any minor or guardian for money paid to him under this section shall be sufficient discharge of the liability of the society in respect of that money.

(4) A minor under the age of sixteen years has only such rights in a society as may be prescribed in the rules.

96. No member of a society shall exercise the rights of a member until he has made such payment to the society in respect of membership, or has acquired such interest in the society, as may be prescribed in this Act, the rules or the by-laws. Member not to exercise rights until due payment made

97. (1) Where there is no share capital, every member who has paid his membership fee, if any, in full shall receive a certificate of membership. Certificate of membership

(2) Subject to subsection (3), a share certificate may be issued on request.

(3) Shares may be paid for by instalments at the times and in the manner prescribed by the by-laws, but no share certificate shall be issued to a member until the shares to which it relates have been fully paid for.

98. Every society shall have a lien on the shares or other interest of its members in the society for debts due from them to the society, and the interest of any member in the society shall be subject to a set-off of any indebtedness by him to the society.

Lien on members' shares

99. Except in the case of a community service society registered under Part XI, every society shall, after each annual general meeting, furnish a statement to each member showing his share capital or other amounts held to his credit in the society at the end of the previous financial year, and the amounts, if any, credited to him out of the distribution of the net surplus resulting from the operations of the society during that financial year.

Certain societies to furnish statements to members

100. (1) Every society shall keep a register of its members, and of the shares, if any, held by members, which register shall show and shall be *prima facie* evidence of-

Every society to keep a membership register

(a) the names, addresses and occupations of the members, the number of shares held by them respectively, if the society is registered with share capital, the numbers of such shares if they are distinguished by numbers, and the amount paid or considered to be paid thereon;

(b) the date on which each person, society or other organisation was registered or recorded as a member;

(c) the date on which each person, society or other organisation ceased to be a member.

(2) Every society may be required by the Registrar to furnish him with a list of members at such time as he may specify, and such list shall be open for inspection in the office of the Registrar on payment of such fee as may be prescribed in the rules.

101. (1) Each member or delegate in a society shall have one vote only at meetings of the society, and there shall be no voting by proxy. Votes of members and delegates

(2) In case of an equality of votes, the Chairman shall have a casting vote.

(3) Where a society comprises other societies which are members of it, the by-laws of such society shall prescribe the number, or the method of determining the number, of delegates which those member societies may appoint to attend and vote at meetings of such society.

102. The fact that any person who has been admitted as a member of a society has not yet reached the age of twenty-one years shall not prevent that person from executing any instrument or giving any acquittance necessary to be executed or given under this Act or the rules, and shall not be a ground for the invalidation of any contract entered into by such person with the society, and any such contract entered into by any such person with the society, whether as principal or as surety, shall be enforceable at law as against such person, notwithstanding his minority. Contracts with minors

103. No member, other than another society, shall hold more than one-fifth of the share capital of a society. Limitation on share holdings

104. (1) Subject to the provisions of section *seventy-six* (which relate to the right of a member of a credit union to withdraw his shares), and subject to the provisions of subsection (2) of this section, shares may be assigned or transferred, or may be redeemed or re-purchased by the society. Assignment, transfer and re-purchase of shares

(2) Every such assignment, transfer, redemption or repurchase shall be subject to such conditions as may be prescribed in the by-laws of the society, and shall not be valid unless approved by the board of directors, who shall not give such approval if it would reduce the total number of members below the minimum required by this Act for the registration of the society.

105. The shares or other interest of a member in the capital of a society shall not be liable to attachment or sale under decree or order of a court Shares or interest not

in respect of any debt or liability incurred by such member: attachable

Provided that, subject to the by-laws, nothing herein contained shall prohibit the transfer, assignment or sale of the shares or other interest of a member to the society, or to any member thereof.

106. (1) On the death of a member, a society may transfer the shares or other interest of the deceased member to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to the legal personal representative of the deceased member, or may pay to such nominee or legal personal representative, as the case may be, a sum representing the value of such member's share or other interest, as ascertained in accordance with the by-laws or the rules.

Transfer of
interest on
death of
member

(2) A society shall pay all other moneys due to the deceased member from the society to his legal personal representative.

(3) All transfers and payments made by a society in accordance with this section shall be valid and effectual against any demand made upon the society by any other person.

107. (1) Subject to the provisions of section *fifteen*, the liability of a past member for the debts of a society as they existed on the date on which he ceased to be a member shall continue for a period of two years and no more reckoned from that date:

Liability of past
member and
estate of
deceased
member for
debts of society

Provided that, if the first audit of the accounts of the society after his ceasing to be a member discloses a credit balance in favour of the society, the financial liability of such past member shall forthwith cease.

(2) Subject to the provisions of section *fifteen*, the estate of a deceased member shall be liable for the debts of a society as they existed on the date of his decease for a period of two years and no more reckoned from that date:

Provided that, if the first audit of the accounts of the society after his decease discloses a credit balance in favour of the society, such liability

shall forthwith cease.

108. Subject to any prior claim of the Republic on the property of the debtor and to the lien or claim of a landlord in respect of rent or any money recoverable as rent and to any stop-order registered under the provisions of the Farmers' Stop-order Act, Chapter 226 of the 1952 Edition of the Laws, and to any agricultural charge registered under the provisions of the Agricultural Credits Act, and, in the case of immovable property, to any prior registered charge thereon-

Creation of
charges in
favour of
societies
Cap. 224

(a) any debt or outstanding demand due and payable to a society by any member or past member shall be a first charge on all crops or other agricultural produce, felled timber or other forest produce, marine produce, fish, livestock, fodder, agricultural, industrial and fishing implements, plant, machinery, boats, tackle and nets, raw materials, stock-in-trade and generally all produce of labour and things used in connection with production raised, purchased or produced in whole or in part from any loan whether in money or in goods given him by the society:

Provided that nothing herein contained shall affect the claim of any *bona fide* purchaser for value without notice of the loan given by the society;

(b) any debt or outstanding demand due and payable to a housing society by any member or past member in respect of rent, shares, loans or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of such society.

109. (1) Subject to the other provisions of this Act and the rules, a member may withdraw from a registered society under such conditions, and on giving such notice of withdrawal, as may be required by the by-laws.

Withdrawal by
members

(2) Payment of the shares or other interest of the member withdrawing under special circumstances, including illness, disability, permanent removal from the area or district served by the society, or death, shall be made in such order of priority as the by-laws may prescribe or, where not so prescribed, in such order of priority as the directors may approve.

(3) Where, upon the withdrawal of a member, to make payment for the shares held by the member at their par or paid-up value, or to make payment of any other interest of the member at the value shown on the

books of the society, would, in the opinion of the directors, impair, or further impair, the financial stability of the society, the directors may suspend payment for such period as may be approved by the Registrar, or may offer in final settlement such lesser amount as they deem just.

(4) The directors shall deal promptly with all applications for withdrawal from membership.

110. (1) (a) Upon complaint arising against any member of a society, it shall be the duty of the Secretary, upon the instructions of the board of directors, to provide the member with written notice of the particulars of the complaint and of the date, time and place of the meeting of the board of directors at which the complaint and the question of the expulsion of the member will be considered. Expulsion of a member

(b) The directors may, at such meeting duly called and at which a majority of the directors are present, having given the member against whom the complaint has been raised the opportunity to make representations or submissions orally or in writing or both, in rebuttal or in mitigation, resolve, by at least a two-thirds majority vote, that the member be expelled.

(c) The Secretary of the society shall, within two weeks from the date on which the member is expelled, notify him in writing of the action of the directors.

(d) An appeal from the action of the directors may be taken by the member to the next general meeting of the society if written notice of intention to appeal is given by him to the Secretary of the society within thirty days from the date of receipt of the notice mentioned in paragraph (c).

(e) At such a meeting a majority of the members present may, after considering any written or oral representations by the member, confirm or rescind the action of the directors.

(f) If the meeting does not confirm the action of the directors in expelling the member, such expulsion shall be held to be null and void, and the member treated as if no such expulsion had occurred.

(2) Where the Registrar, after investigation, is of the opinion that a member has acted in contravention of the rules or the by-laws of the society, or has acted in a way that is detrimental to the interests of the society and its members, he may communicate his complaint in writing to the directors who shall thereupon proceed in accordance with the provisions of paragraphs (a) and (b) of subsection (1).

(3) The share capital or other interest in a society held by a member who is expelled under this section shall be refunded to him as soon as funds are available.

(4) A member who has been expelled from a society under this section shall forfeit all rights to share in the net surplus or other benefits of the society from the date of his expulsion, other than the right to have his share capital or other interest in the society refunded to him, together with such dividend as may later be declared and calculated up to the date his share capital or other interest was refunded.

(5) No person who has been expelled from a society shall be eligible for re-admission as a member within a period of one year from the date of his expulsion.

PART XIV

DIRECTORS

111. (1) Every society shall have a board of directors consisting of such number of persons as shall be prescribed by its by-laws. Board of directors (or committee)

(2) Every reference in the by-laws of a society to a "committe" elected by the members to supervise the business and property of such society shall be deemed to have the same meaning as the words "board of directors" in subsection (1), and any reference in this Act to the powers and duties of directors shall apply to the powers and duties of such committee duly elected by the members of a society in accordance with its by-laws.

(3) The persons whose names appear in the application for the registration of a society shall, upon registration, be deemed to have all the powers and duties of directors, and shall direct the affairs of the society until their successors have been elected by the members at the first general meeting.

112. Where the by-laws of a society provide for the election of directors by members or delegates voting by districts, directors so chosen shall be deemed to be elected by all the members or delegates as if the election had been by vote of all the members or delegates present at a duly called meeting.	Effect of election of directors by districts
---	--

113. (1) Subject to the provisions of sections <i>sixty-three</i> and <i>seventy-four</i> (which relate to the duties of credit committees and supervisory committees in credit unions) the board of directors shall direct and supervise the business and property of a society and may exercise all such powers of the society as are not required by this Act, the rules or the by-laws to be exercised by resolution of the society in a general or special meeting.	Duties and powers of directors
---	--------------------------------

(2) Without limiting the generality of the provisions of subsection (1), the directors shall-

(a) consider, and approve or reject, applications for membership of the society;

(b) call for and examine regularly reports from officers of the society which will disclose the true position of the society, its operations and financial condition;

(c) keep the members informed of the progress of the society, encourage interest and a sense of ownership on their part in the society, and have charge of any educational or advisory work amongst the members respecting co-operative principles and the objects of the society;

(d) except in the case of a credit union, to which the provisions of Part VIII apply, prepare and present to the annual general meeting of the society a resolution determining the distribution of the net surplus for the previous financial year in accordance with the other provisions of

this Act, the rules and the by-laws of the society;

(e) make a report to the annual general meeting of the work of the directors during the preceding financial year, and the progress made by the society during that year, with such recommendations as they deem necessary to maintain or improve the services provided by the society to its members.

(3) A full and correct record shall be kept of all proceedings of the board of directors in carrying out its duties, and the records shall be available for inspection by or under the direction of the Registrar.

(4) If a director has an interest in any other society, company or organisation with which, to his knowledge, the society of which he is a director proposes to enter into a contract, he shall disclose the fact of his interest to his board of directors at or before the time the contract is made, and he shall not vote in respect of such contract; should he so vote, his vote shall not be valid.

114. The directors shall elect from their number a Chairman and one or more Vice-Chairmen, and may appoint and fix the remuneration of a Secretary, Treasurer, or a Secretary-treasurer or manager who need not be a member of the society. Officers

115. The term of office of the directors shall be prescribed in the by-laws. Term of office

116. No person other than a member of a society or delegate of a member society shall be eligible to be elected or appointed as a director of the society, except as provided in sections *one hundred and sixty-one* and *one hundred and sixty-two*. Directors must be members

117. (1) Subject to the provisions of subsection (2), where a vacancy on the board of directors occurs otherwise than by expiration of the term of office, the remaining members of the board may, unless the by-laws provide otherwise, fill the vacancy until the next annual general meeting. Vacancy on board of directors

(2) Where, by reason of vacancies on the board of directors, the number

of directors is reduced to less than the number required by the by-laws to constitute a quorum for a meeting of directors, the remaining directors shall immediately call a special general meeting of the society to fill the vacancies.

118. The office of a director shall be vacated if the director-

Vacation of
office of
director

(a) is removed from his office under the provisions of section *one hundred and twenty-two*; or

(b) holds any office of profit in the society other than that of Secretary, Treasurer, Secretary-treasurer or manager; or

(c) becomes bankrupt; or

(d) becomes of unsound mind; or

(e) is concerned or participates in the profits of any contract made between the society and any other society, company or organisation in which he has an interest, the fact of which he knowingly failed to disclose to the board of directors at or before the time the contract was made; or

(f) is convicted of any offence involving dishonesty or is imprisoned for three months or more; or

(g) dies.

119. If a loan or other transaction is made in contravention of this Act, all directors, members of any committee and other officers of the society who made the loan or other transaction, or assented thereto, are jointly and severally liable to the society up to the amount of the loan or other transaction:

Liability of
directors or
other officers
for unlawful
transactions

Provided that if, in proceedings to recover from a person mentioned in this section any amount for which he is liable hereunder, it appears to the court that he has acted honestly and reasonably and ought fairly to be excused in whole or in part for making or assenting to the loan or other transaction, the court may relieve him wholly or partly from personal liability.

120. (1) The directors shall hold meetings at such times as may be provided in the by-laws.

Meetings of
directors

(2) Unless the by-laws provide otherwise, meetings of directors shall be

held and notice thereof given in accordance with the resolutions of the directors.

(3) The Chairman may at any time and shall, if requested in writing by a majority of the directors to do so, call a special meeting of the directors.

(4) Unless the rules or the by-laws otherwise provide, the number of directors required to constitute a quorum for the transaction of business shall be a majority of the number of directors of the society; and if a quorum is not present at a meeting of the directors, those present shall adjourn the meeting from time to time until a quorum is present.

121. Subject to the rules, the directors may require every person appointed to an office pertaining to the receipt, management or expenditure of the money of a society to give such security as the directors deem sufficient. Security

122. In the absence of a provision in its by-laws, a society may for good reason, by resolution passed by at least two-thirds of the members and delegates present at a general meeting or at a special meeting called for the purpose, remove any director before the expiration of his term of office. Removal from office

PART XV

MEETINGS

123. (1) Every society shall provide in its by-laws for an annual general meeting and may also provide for semi-annual, quarterly or other general meetings. Annual and other general meetings

(2) Unless the by-laws otherwise provide, a notice of every general meeting shall be sent to each member or delegate entitled to attend the same, at least twenty-one days prior to the date of the meeting, at the address given in the register of members.

124. (1) The directors of a society may at any time and, where at least Special

one-tenth of the members or one-quarter of the delegates so request shall, call a special meeting of members or members and delegates, as the case may be. meetings

(2) Unless the by-laws otherwise provide, notice of all special meetings, together with a statement of the purpose thereof, shall be sent to each member or delegate who is entitled to attend the same, at least twenty-one days prior to the date of the meeting.

(3) No business other than that specified in the notice shall be transacted at a special meeting unless all members of and delegates to the society are present at the meeting and unanimously agree to discuss other business.

125. If at any time it is impracticable to call a general or special meeting of the society in the manner provided by this Act, or the by-laws, the Registrar may, on application to him for the purpose, prescribe the manner of calling the meeting. Registrar may prescribe manner of calling meetings

126. Save as otherwise provided in this Act, the rules or the by-laws, the quorum at a general or special meeting of a society shall be a majority of the members, or delegates, or members and delegates, as the case may be, entitled to attend and vote. Quorum

127. (1) If a society fails to hold an annual general meeting, the Registrar may call a meeting of the society to enable the members to secure such information regarding its affairs as they are entitled to receive under this Act, and to deal with any matter affecting the society and its affairs, including the adoption of additional by-laws or amendments to existing by-laws. Power of Registrar to call meetings

(2) The Registrar may call a special meeting of the society for the purpose of reporting to the members the result of any audit, examination or other investigation of the society's affairs ordered or made by him.

(3) Notwithstanding any other provision in this Act, the rules or the by-laws, the quorum at a general or special meeting called by the Registrar under subsection (1) or (2) shall be the members or delegates

attending.

128. (1) The authority of the members as joint owners of the business and property of a society shall be vested in the annual general meeting of members, and in any special meeting called in accordance with the provisions of this Part. Authority of the members

(2) Without limiting the generality of the provisions of subsection (1), the members at the annual general meeting shall confirm or amend the resolution of the board of directors respecting the distribution of the net surplus, if any, arising from the yearly business of the society, receive, discuss and dispose of the reports of officers of the society, the auditor's report, if any, the financial statement and the report of any inspection of the affairs of the society made by or under the direction of the Registrar, elect directors and committees as required by this Act, and make such decisions and recommendations as they deem necessary with respect to the objects and services of the society, for implementation by the directors and other officers.

(3) Officers may be paid reasonable travelling and other out-of-pocket expenses incurred by them in discharging their duties, and may be paid such honorarium as the by-laws of the society may permit, or such honorarium, payment of which shall be subject to the prior written permission of the Registrar, as the members may by majority vote approve at a general meeting.

(4) Receipt of an honorarium under the provisions of subsection (3) shall not imply that the recipient is the holder of an office of profit.

PART XVI

CHARGES BY SOCIETIES

129. (1) Every charge created by a society and being either- Registration

(a) a charge for the purpose of securing any issue of debentures; or

(b) a charge on uncalled or unpaid share capital of the society; or

(c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale; or

(d) a charge on land, wherever situate, or any interest therein; or

(e) a charge on book debts; or

(f) a floating charge on the undertaking or property of the society; shall, so far as any security on the society's property or undertaking is thereby conferred, be void against the liquidator and any creditor of the society, unless the prescribed particulars of the charge, together with the instrument, if any, by which the charge is created or evidenced, are delivered to or received by the Registrar for registration in the manner required by this Act within thirty days after the date of its creating, but without prejudice to any contract or obligation for payment of the money thereby secured, and, when a charge becomes void under this section, the money secured thereby shall immediately become payable.

(2) Where a negotiable instrument has been given to secure the payment of any debts due to a society, the deposit of the instrument for the purpose of securing an advance to the society shall not for the purposes of this section be treated as a charge on those debts.

(3) The holding of debentures entitling the holder to a charge on land shall not be deemed to be an interest in land.

(4) The Registrar shall keep with respect to each society a register in the prescribed form of all charges requiring registration under this section, and shall, on payment of the prescribed fee, enter in the register, with respect to every charge, the date of creation, the amount secured by it, short particulars of the property charged and the names of the persons entitled to the charge.

(5) The Registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this section, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this section as to registration have been complied with.

(6) It shall be the duty of the society to send to the Registrar for registration the particulars of every charge requiring registration under this section, but registration of any such charge may be effected on the application of any person interested therein:

Provided that where the registration is effected on the application of some person other than the society, that person shall be entitled to recover from the society the amount of any fees properly paid by him to the Registrar on the registration.

(7) The register kept pursuant to this section shall be open to inspection by any person on payment of the prescribed fee.

(8) Every society shall cause a copy of every instrument creating any charge requiring registration under this section to be kept at the registered address of the society.

(9) In this Part, the expression "charge" includes mortgage.

130. (1) If any person obtains an order for the appointment of a receiver or manager of the property of a society, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within seven days from the date of the order or of the appointment under the powers contained in the instrument, give notice of the fact to the Registrar, and the Registrar shall, on payment of the prescribed fee, enter the fact in the register of charges.

Registration of
enforcement of
security and
filing of
accounts

(2) If any person makes default in complying with the requirements of subsection (1), he shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred penalty units for every day during which the default continues.

(3) Every receiver or manager of the property of a society who has been appointed under the powers contained in any instrument, and who has taken possession, shall, once in every half year while he remains in possession, and also on ceasing to act as receiver or manager, file with the Registrar an abstract in the prescribed form of his receipts and payments during the period to which the abstract relates, and shall also, on ceasing to act as receiver or manager, file with the Registrar notice to

that effect, and the Registrar shall enter the notice in the register of charges.

(4) Every receiver or manager who makes default in complying with the provisions of subsection (3) shall be guilty of an offence and be liable on conviction to a fine not exceeding one thousand penalty units.

(As amended by Act No. 13 of 1994)

131. A Judge, on being satisfied that the omission to register a charge within the time hereinbefore required, or that the omission or mis-statement of any particular fact with respect to any such charge was accidental or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or of the society, or that on other grounds it is just and equitable to grant relief, may, on the application of the society or any person interested, and on such terms and conditions as seem to the Judge just and expedient, order that the time for registration be extended or, as the case may be, that the omission or mis-statement be rectified.	Rectification of register of charges
---	--------------------------------------

132. The Registrar shall, on evidence being given to his satisfaction that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall if required furnish the society with a copy thereof.	Entry of satisfaction
---	-----------------------

133. If any society makes default in sending to the Registrar for registration the particulars of any charge requiring registration under this Part, then, unless the registration has been effected on the application of some other person, the society, and every officer thereof or other person who is knowingly a party to the default, shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand penalty units for every day during which the default continues.	Failure to send particulars for registration
--	--

(As amended by Act No. 13 of 1994)

134. (1) Every society shall keep a register of charges and enter therein all charges specifically affecting property of the society and all floating charges on the undertaking or any property of the society, giving in each case a short description of the property charged, the amount of the charge, and the names of the persons entitled thereto.	Society's register of charges
---	-------------------------------

(2) If any officer knowingly and wilfully authorises or permits the

omission of any entry required to be made pursuant to this section, he shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand penalty units.

(As amended by Act No. 13 of 1994)

135. (1) The copies of instruments creating any charge requiring registration under this Part and the register of charges kept pursuant to the last foregoing section, shall be available at all times for inspection by any creditor or member of the society without fee, and the said register of charges shall also be open for inspection by any other person on payment of such fee, not exceeding one hundred kwacha for each inspection, as the society may prescribe.

Right to inspect
copies of
instruments and
register of
charges

(2) If inspection of the said copies or register is refused, any officer refusing inspection or authorising or knowingly and wilfully permitting the refusal shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred penalty units, and a further fine not exceeding one hundred and forty penalty units for every day during which the refusal continues; and, in addition to the above penalty, any Judge sitting in Chambers may by order compel an immediate inspection of the copies or register.

(As amended by Act No. 13 of 1994)

136. A condition contained in any charge created by a society shall not be invalid by reason only that thereby the charge is made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

Perpetual
charges

PART XVII

ADMINISTRATION OF SOCIETIES

137. Every society shall have a registered office to which all communications and notices may be addressed.

Registered
office

138. (1) Every society shall have a corporate seal which shall contain the name of the society.

Seal

(2) The seal of a society shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and the application of the seal shall be authenticated by the signatures of two directors and of the Secretary.

139. (1) Every society shall keep such records and books of accounts as the Registrar may require, including a proper set of commercial books, in which all transactions of the society shall be clearly entered.

Books and
records

(2) Subject to such conditions as may be prescribed by the rules, the records of the society shall be open for inspection by any member or delegate during the usual office hours at the registered office of the society:

Provided that no person who is not an officer of the society, nor specially authorised by resolution thereof, shall have the right to inspect the account of any other member without the written consent of that member.

(3) A copy of any entry in a book of a society regularly kept in the course of business may be authenticated by a certificate written at the end of such copy declaring that it is a true copy of such entry and that the book containing the entry is still in the custody of that society, such certificate being dated and signed by the Secretary of the society and one member of the board of directors.

(4) If authenticated as aforesaid, any such copy as is mentioned in subsection (3) shall be received in any legal proceedings, civil or criminal, as *prima facie* evidence of the existence of such entry and of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(5) No officer of any society shall, in any legal proceedings to which the society is not a party, be compelled to produce any of the society's books, the contents of which can be proved under subsections (3) and (4), or to appear as a witness to prove any matters, transactions or accounts therein recorded, unless the court for special reasons so directs.

140. (1) Subject to the provisions of paragraph (c) of section

Audit and

seventy-four and sections *seventy-five* and *one hundred and forty-one* the Registrar shall audit, or cause to be audited by some person authorised by him by general or special order in writing, the accounts of every society at least once in every year.

investigation by
Registrar

(2) The audit under subsection (1) shall include the examination of accounts receivable, accounts payable and overdue debts, if any, and a valuation of the assets and liabilities of the society.

(3) The Registrar and every person appointed to audit the accounts of a society shall have power when necessary-

(a) to summon at the time of his audit, any officer, employee or member of the society who he has reason to believe can give information in regard to any transactions of the society or the management of its affairs;

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society, by an officer, agent, employee or member in possession of such book, document, cash or securities;

(c) to examine any officer of the society under oath.

(4) When the accounts of a society have been audited, the report of the auditor shall be presented to the annual general meeting and to the Registrar.

(5) When the Registrar is of the opinion that the affairs of a society require an immediate investigation in order to safeguard the interests of the members, or the rights of creditors, he may order a special investigation to be made by some person authorised by him.

(6) A report of any special investigation made under subsection (5) may be presented to a special meeting of the members called by or under the direction of the Registrar.

141. (1) The annual audit of the books and accounts of a society whose total assets exceed such an amount as shall be prescribed from time to

When public
accountant

time by the Minister by statutory order shall be conducted by a person publicly carrying on the profession of accountant in Zambia, appointed by the Registrar or engaged by the board of directors of the society with the approval of the Registrar. required as auditor

(2) A federation registered under the provisions of Part XII, with objects which include the provision of auditing services, may appoint such an accountant as auditor for a society which is a member of such federation, and, if its by-laws so permit, for any other society at the request of that society or the Registrar.

(3) The rules may provide that a society, for whom the services of such an accountant are required as auditor under subsection (1), shall become a member of a federation registered under section *ninety-one* with objects which include the provision of auditing services, and shall request such federation to appoint the auditor for the society.

(4) An auditor engaged or appointed under this section shall make a report to the members of the society on the accounts and balance sheet examined by him, and shall state in the report-

(a) whether or not he obtained all the information and explanations he required;

(b) whether, in his opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the society's affairs according to the explanations given, and as shown by the books of the society;

(c) whether, in his opinion, all the transactions of the society which have come to his notice have been within the objects and powers of the society.

(5) The auditor shall disclose to the Registrar any matter or circumstance which has come to his knowledge or attention during the course of his audit which will, in his opinion, assist the Registrar with the administration of this Act, and the Registrar may enlarge or extend the scope of the audit and direct that any further or particular examination be made or any other procedure for the audit be adopted.

142. The Registrar, or any person authorised by general or special order in writing by the Registrar, shall at all reasonable times have access to all the books, accounts, papers and securities of a society, and shall be entitled to inspect the cash in hand, and every officer of the society shall furnish such information in regard to the transactions and operations of the society as the person making the inspection may require.

Power of Registrar to inspect societies' books, etc.

143. (1) Every society shall, within six months after the end of each financial year, send to every member who requests it, an audited statement of the receipts and expenditures and of the assets and liabilities of the society.

Yearly and other returns

(2) Every society shall furnish the Registrar with such annual and other returns and information as he may require.

(3) Every return and other document required under this Act shall be made in such form as the Registrar may require or as may be prescribed in the rules.

(4) If any person wilfully makes, orders or allows to be made any entry or erasure in, or omission from, any balance sheet of a society, or any collecting book, or any return or document required to be sent, produced or delivered for the purposes of this Act, with intent to falsify the same, or to evade any of the provisions of this Act, he shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand five hundred penalty units:

Provided that a person shall not be prosecuted for an offence under this section without the written consent of the Director of Public Prosecutions.

(As amended by Act No. 13 of 1994)

PART XVIII

AMALGAMATION AND DIVISION OF SOCIETIES

144. (1) Subject to the approval of the Registrar, any two or more societies may, by special resolution of each of those societies, become amalgamated together as one society, with or without any dissolution or division of the funds of those societies or any of them; and the property of each of those societies shall become vested in the amalgamated society, without the necessity of any form of conveyance or assignment, upon the registration of the amalgamated society.

Amalgamation
of societies

(2) Subject to the approval of the Registrar, any society may by special resolution transfer its engagements to any other society which undertakes to fulfil those engagements; and if that resolution approves the transfer of the whole or any part of the society's property to that other society, the whole or, as the case may be, that part of the society's property shall vest in that other society, without the necessity of any form of conveyance or assignment, upon the registration of the resolution.

(3) At such meeting as aforesaid a declaration by the Chairman that the resolution has been carried shall be deemed conclusive evidence of that fact.

(4) Two copies of every such special resolution, signed by the Chairman of the meeting at which the resolution was passed and countersigned by the Secretary of the society, shall be sent within twenty-one days of the passing thereof to the Registrar with, in the case of an amalgamation, three copies of the by-laws of the amalgamated society.

(5) Subject to being provided with such additional information as he may require, the Registrar may approve and register the resolution, and, in the case of an amalgamation, register the amalgamated society and its by-laws; and until the resolution is so registered it shall not take effect.

(6) An amalgamation or transfer of engagements in pursuance of this section shall not prejudice any right of a creditor of any society which is a party thereto.

(7) Upon the registration of such resolutions, amalgamated society and by-laws, the Registrar shall endorse his certificate of registration upon

one copy of each resolution and by-laws, as the case may be, and return it to the society which sent it.

(8) Whenever, in pursuance of this section, any property, rights, liabilities or obligations of a society become vested in an amalgamated or other society, in respect of the transfer of which any written law provides for registration, it shall be the duty of the amalgamated or other society to make written application to the proper officer of the appropriate registration authority for the registration of such transfer, and it shall be the duty of such officer, on production of the appropriate resolutions duly registered by the Registrar, and, in the case of an amalgamation, the certificate of registration, to make such entries in the appropriate register as shall give effect to such transfer and, where appropriate, to issue to the amalgamated or other society concerned a Certificate of Title or a Provisional Certificate in respect of the said property, or to make necessary amendments to the register, as the case may be, and, if presented therefor, to make endorsement on the deed relating to the title, right or obligation concerned.

145. (1) Subject to the approval of the Registrar and subject to such conditions as may be prescribed in the rules, a society may, by a special resolution, resolve to divide itself into two or more societies. Division of societies

(2) The resolution shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide, and shall prescribe the area of operation of, and specify the members who will constitute, each of the new societies; and the property of the society, other than land or an interest in land, shall vest in the new societies in accordance with the division determined in the resolution upon the registration of the new societies.

(3) Two copies of the resolution, signed by the Chairman of the meeting at which the resolution was passed and countersigned by the Secretary of the society, shall be sent within twenty-one days of the passing thereof to the Registrar, with three copies of the by-laws of the proposed new societies.

(4) Subject to being provided with such additional information as he may require, the Registrar may, if satisfied that the proposed division is in the interest of the members, and does not prejudice the rights of any creditor, register the resolution, the new societies and their respective

by-laws, and cancel the registration of the original society; and until the resolution is so registered it shall not take effect.

(5) A division of a society in pursuance of this section shall not prejudice any right of a creditor of the society divided.

(6) Upon the registration as aforesaid, the Registrar shall endorse his certificate of registration upon one copy of the resolution and return it to the original society with his certificate of cancellation of its registration, and shall likewise endorse the by-laws of the new societies and send one copy thereof to each of the new societies with their certificates of registration.

PART XIX

DISSOLUTION AND WINDING-UP

146. (1) The Registrar may make an order in writing for the cancellation of the registration of a society if satisfied that-

Dissolution of
societies

- (a) the registration was obtained by fraud or mistake; or
- (b) the society exists for an illegal purpose; or
- (c) the society has wilfully, after notice by the Registrar, contravened any of the provisions of this Act, the rules or the by-laws; or
- (d) the society is no longer operating in accordance with co-operative principles; or
- (e) the number of members of the society has fallen below the minimum required by this Act; or
- (f) the society is no longer in business or operation; or
- (g) the results of an investigation made under section *one hundred and forty* show that the society is unable to continue in business.

(2) Upon receipt by the Registrar of an application from a society made in pursuance of a special resolution and requesting the cancellation of the registration of that society, he may, subject to the immediately following subsections, make an order for the cancellation of the registration of such society.

(3) Any member of such a society may, within sixty days from the date of an order under subsection (1), appeal from such order to the Minister.

(4) Where no appeal is presented within sixty days from the making of an order cancelling the registration of a society under subsection (1), the order shall take effect upon the expiration of that period; but where an appeal is presented within sixty days, the order shall not take effect unless and until the appeal is disallowed by the Minister.

(5) Where the Registrar makes an order for the cancellation of the registration of a society under this section, he may make such further order as he may think fit for the custody of the books and documents and the protection of the assets of the society until the order cancelling the registration takes effect.

(6) No society shall be wound up except by order of the Registrar.

(7) When the registration of a society is cancelled by an order under this section, the society shall from the date on which the order takes effect cease to exist as a body corporate and shall cease to carry on any business, make any transactions or do any act affecting its property or its members or patrons.

(8) Where the registration of a society is cancelled by an order under this section, a floating charge on the undertaking or property of such society which was created within twelve months prior to the date of dissolution of such society shall, unless it is proved that the society, immediately after the creation of the charge, was solvent, be invalid except to the amount of any cash paid to the society at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at a rate not exceeding six per centum per annum.

147. (1) Where the Registrar makes an order cancelling the registration of a society under the provisions of section *one hundred and forty-six*, he may, either before or after the said order takes effect, also make an order appointing one or more persons to be, subject to his direction and control, liquidator or liquidators of the society.

Liquidation
after
cancellation of
registration

(2) The assets of the registered society shall vest forthwith in the liquidator or liquidators appointed under this section with effect from the appointment:

Provided that if any appeal made under the provisions of subsection (3) of section *one hundred and forty-six* is upheld and the order cancelling registration is set aside, then the appointment of any liquidator or liquidators shall cease forthwith and the assets of the society shall forthwith again vest in the society, but without prejudice to the validity of any acts lawfully performed by a liquidator in terms of this Act.

148. (1) A liquidator appointed under the provisions of section *one hundred and forty-seven* shall, subject to the guidance and control of the Registrar, and to any limitations imposed by the Registrar by an order under the provisions of section *one hundred and forty-nine*, have power to-

Liquidator's
powers

(a) determine from time to time the contribution to be made by members and past members or by the estates or deceased members of the society to its assets;

(b) appoint, and give notice of, a day before which creditors, whose claims are not already recorded in the books of the society, shall state their claims or be excluded from any distribution;

(c) decide in accordance with the law relating to bankruptcy and subject to the provisions of section *one hundred and fifty-three* of this Act, any question of priority which arises between creditors;

(d) refer disputes to arbitration and institute and defend suits and other legal proceedings on behalf of the society;

(e) decide by what persons and in what proportions the costs of

liquidation are to be borne;

(f) give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding up the society;

(g) compromise any claim by or against the society with the approval of the Registrar;

(h) call such general meetings of members as may be necessary for the proper conduct of the liquidation;

(i) take possession of the books, documents and assets of the society;

(j) carry on the business of the society so far as may be necessary for winding it up beneficially, but not to issue any loans; and

(k) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Registrar.

(2) Subject to such rules as may be made in this behalf, any liquidator appointed under this Act shall, in so far as such powers are necessary for carrying out the purpose of this section, have power to summon and enforce the attendance of parties and witnesses, and to compel the production of documents by the same means and (so far as may be) in the manner as is provided in the case of a civil court.

149. A liquidator shall exercise his powers subject to control and revision by the Registrar, who may-

Power of
Registrar to
control
liquidation

(a) rescind or vary any order made by a liquidator and make whatever new order is required;

(b) remove a liquidator from office;

(c) call for all books, documents and assets of the society;

(d) by order in writing limit the powers of the liquidator under the provisions of the foregoing section;

(e) require accounts to be rendered to him by the liquidator;

(f) procure the auditing of the liquidator's accounts and authorise

the distribution of the assets of the society;

(g) make an order for the remuneration of the liquidator;

(h) refer any subject of dispute between a liquidator and any third party to arbitration if that party shall have consented in writing to be bound by the decision of the arbitrator.

150. An appeal to a subordinate court of the first class, having jurisdiction over the area in which the headquarters of the society are situated, from any act, decision or instruction, done or given by a liquidator under the provisions of section *one hundred and forty-eight*, or by the Registrar under the provisions of section *one hundred and forty-nine*, may, with the written consent of the Attorney-General, be made in the manner prescribed in the rules.

Appeals against
decisions

151. Orders, decisions or instructions given under the provisions of sections *one hundred and forty-eight*, *one-hundred and forty-nine* and *one hundred and fifty* may be enforced as follows:

Enforcement of
decisions

(a) when given by a liquidator or the Registrar, by any court having jurisdiction, in the same manner as a decree of such court;

(b) when given by a subordinate court of the first class on appeal, in the same manner as a decree of such court.

152. Save in so far as is hereinbefore expressly provided, no civil court shall have any jurisdiction in respect of any matter concerned with the dissolution of a society under this Act.

Limitation of
the jurisdiction
of the civil
court

153. (1) In the liquidation of a society whose registration has been cancelled, the funds, including the reserve fund, shall be applied first to the costs of liquidation, then to the discharge of the liabilities of the society, then to the payment of the share capital and then, if the by-laws of the society so permit, to the payment of a dividend at a rate not exceeding six per centum per annum for any period for which no disposal of the net surplus was made.

Closure of
liquidation

(2) When the liquidation of a society has been closed and any creditor of that society has not claimed or received what is due to him under the scheme of distribution, notice of the closing of the liquidation shall be published in the *Gazette*, and all claims against the funds of the society liquidated shall be cancelled when two years have elapsed from the date

of the publication of the notice in the *Gazette*.

(3) Any surplus remaining after the application of the funds to the purposes specified in subsection (1), and to the payment of any claims not cancelled under subsection (2), shall-

(a) be distributed amongst the members at the time of dissolution (or their legal personal representatives) in proportion to the value of the business of each such member with the society during the three years immediately preceding the date of dissolution or, if the society has not existed for such period, during the existence of the society or, if the society has done no business during these three years, then in proportion to the share capital held by them at such date;

(b) if it is impracticable to make a distribution in accordance with paragraph (a) whether through insufficiency of funds or otherwise, be paid, subject to the approval of the Registrar (either in whole or as to any residue of a partial distribution) to local organisations with objectives beneficial to the community.

PART XX

DISPUTES

154. (1) If any dispute touching the business of a society arises-

Settlement of
disputes

(a) among members, past members, and persons claiming through members, past members and deceased members; or

(b) between a member, past member, or person claiming through a member, past member or deceased member, and the society, its board of directors, or any officer of the society; or

(c) between the society or its board of directors and any officer of the society; or

(d) between the society and any other society;

such dispute may, unless the by-laws provide for the arbitration of

disputes, be referred to the Registrar for decision.

(2) A claim by a society for any debt or demand due to it from a member, past member or the nominee or legal personal representative of a deceased member, shall be deemed to be a dispute touching the business of the society within the meaning of subsection (1).

(3) The Registrar may, on receipt of a reference under subsection (1)-

(a) decide the dispute himself; or

(b) refer it for disposal to an arbitrator or arbitrators:

Provided that if the question at issue in such dispute is one involving complicated questions of law and fact, or one of the parties requests that the dispute be referred to a civil court, the Registrar may, in his discretion, suspend proceedings in the matter until the question has been determined by a civil suit instituted by one of the parties to the dispute; if no such suit is instituted within six months of the Registrar's order suspending proceedings, the Registrar shall take action in accordance with the foregoing provisions of this subsection.

(4) Any party aggrieved by the award of the arbitrator or arbitrators may appeal therefrom to the Registrar within one month of such award.

(5) An appeal to the Minister against a decision of the Registrar under subsection (3) or (4) shall lie within two months of such decision.

(6) An award of the arbitrator or arbitrators, or a decision of the Registrar under the provisions of this section, if no appeal is made therefrom, or if any such appeal is lost, abandoned or withdrawn, and the decision of the Minister under subsection (5), shall be final and shall not be called in question in any civil court, and shall be enforced in the same manner as if the award or decision had been a judgment of a civil court.

155. (1) Notwithstanding anything contained in the last foregoing section, the Registrar at any time, when proceeding to a decision under this Act, may refer any question of law involved in such decision for the

Case stated on
question of law

opinion of the High Court.

(2) Any Judge, as the Chief Justice may direct, may consider and determine any question of law so referred, and the opinion given on such question shall be final and conclusive.

PART XXI

RULES

156. (1) For the purpose of carrying out the provisions of this Act according to their intent, and to facilitate the administration of societies, the Minister may, by statutory instrument, make such rules and orders as are ancillary thereto and are not inconsistent therewith, for any society, or kinds or classes of societies, or societies seeking registration.

Purpose and
contents of
rules

(2) Without restricting the generality of the foregoing, the Minister may make rules and orders respecting-

(a) provisions other than those prescribed in this Act which shall be contained in the by-laws of a society;

(b) fees to be paid under the provisions of this Act, or any rule;

(c) the procedure to be followed in applying for the registration of a society;

(d) model by-laws for different kinds of societies;

(e) the forms to be used, the conditions to be complied with and procedure to be followed by persons, societies or other organisations applying for admission as members;

(f) the rights in a society of a minor under the age of sixteen years, subject to section *ninety-five*;

(g) the manner in which payment of their interest in a society may be made to members who have been expelled;

(h) the procedure for the nomination of a person to receive a deceased member's shares or interest, and the manner in which the value of such shares or interest shall be ascertained;

(i) the procedure at general or special meetings of members, the order of business at such meetings, the nomination and election of officers, the methods of voting, the quorum at meetings and the reports of results of elections and of the appointment of officers which have to be forwarded to the Registrar;

(j) the procedure at meetings of boards of directors, the quorum and order of business at such meetings and the manner in which boards of directors shall carry out their duties;

(k) the procedure at meetings of credit committees and supervisory committees elected or appointed by a credit union or a federation, and the manner in which such committees shall carry out their duties;

(l) the duties of and procedure to be followed by officers, including the Chairman, Vice-Chairman, Secretary, Treasurer and Secretary-treasurer, and the manner in which these duties may be modified or altered when assigned to a manager or a managing director;

(m) the conditions under which a society marketing agricultural products, handling agricultural requisites or providing farming services may, subject to section *thirty-three*, be authorised to accept interest-bearing savings deposits from its members;

(n) the conditions under which a society marketing agricultural products, handling agricultural requisites or providing farming services may, subject to section *thirty-five*, be authorised to make loans to its members;

(o) the procedure by credit unions and federations in providing savings and credit services to their members under Part VIII or under paragraph (a) (iii) of section *ninety-one*, including the purchase and withdrawal of shares by members, the making and withdrawal of deposits by members, the manner of making loans to members, the deposit and payment of funds of the credit union or society, the maintenance of a cash fund to meet withdrawals, the qualifications of officers, and requirements for the keeping of records;

- (p) the maintenance of reserve funds, the objects for which such funds may be applied, and the investment of funds controlled by a society;
- (q) the minimum amount and form of security which may be required by the directors from any person appointed to an office relating to the receipt, management or expenditure of money;
- (r) when a society shall be required to become a member of a federation registered under section *ninety-one* with objects which include the provision of auditing services, the appointment of such federation as auditor for the society;
- (s) the manner in which any question of breach of contract involving the disposal of agricultural products or natural products to or through the society may be determined, and the manner in which liquidated damages for such breach may be assessed, if the question is not referred to the courts;
- (t) the conditions under which funds may be raised by a society by means of the sale of bonds, debentures or other securities of the society, and the information respecting the sale of such bonds, debentures or securities to be filed with the Registrar or with a board constituted under section *one hundred and sixty-four*;
- (u) the duties of and the procedure to be followed by a board constituted under section *one hundred and sixty-four*;
- (v) the form of yearly or other financial returns and reports to be filed by societies with the Registrar;
- (w) provision for the audit of the accounts of societies, for the charges, if any, to be made for such audit, for the levy of contributions from all or any societies to be paid into a fund to be used to finance the audit of such accounts, and for the administration of such fund.

PART XXII

ORGANISATION AND SUPERVISION

157. (1) The Registrar or any person authorised to act for him shall, at the request of any person or groups of persons interested in the organisation of a society under this Act, furnish such information regarding co-operative principles, practices and organisation as will assist them in determining the feasibility of such organisation and facilitate registration.

Assistance with
co-operative
organisation
and education

(2) Where the Registrar is of the opinion that a group or groups of persons can improve the conditions under which they live, or can provide themselves with new services which they need, by the organisation, registration and operation by them of a society under this Act, the Registrar, or any person authorised to act for him, may offer to assist such group or groups of persons with such information respecting co-operative principles, practices and organisation as will enable them to determine the feasibility of such organisation and registration.

(3) Where a federation has been registered under Part XII with objects which include the provision of education and advisory work relating to co-operative enterprises and development, the Registrar may request such federation to furnish information regarding co-operative principles, practices and organisation required pursuant to subsection (1), or carry on such educational and advisory work as will assist in determining the feasibility of organising a society under the conditions mentioned in subsection (2).

158. (1) The Registrar, or any person authorised to act for him, shall provide, or cause to be provided, such inspection, examination, and technical or other information and advice regarding the affairs of a society as may be necessary to assist its officers and members in the due observance of and compliance with this Act, and in the achievement of the objects and the purposes of the society on a co-operative basis.

Inspection and
advisory
services by
Registrar, etc.

(2) Subject to the provisions of subsection (1), the Registrar may encourage and arrange with the officers of a federation registered under Part XII, where consistent with its objects, to provide such technical or other information and advice regarding the operations of a society which is a member of such federation, as may be necessary to assist its officers and members in the achievement of its objects and purposes, and, where appropriate, to provide to the society other services designed to facilitate the inspection and examination of its affairs.

(3) Subject to instructions from the Minister, the Director of Co-operative Societies may arrange with the proper officers of any department or agency of the Government that such department or agency undertake to provide such technical or other information and advice regarding the operations of a society as may be necessary to assist its officers and members in the achievement of its objects and purposes, and, where appropriate, to provide to the society other services designed to facilitate inspection and examination of its affairs in accordance with this section.

159. The Registrar may, upon request and upon an indication of the proposed objects or purposes, prepare such by-laws as may be required for any society, or proposed society. Registrar may supply by-laws

160. (1) Upon payment of the prescribed fee, any person may inspect in the office of the Registrar the by-laws of any society registered under this Act. Inspection of records

(2) A certified copy of the by-laws of any society registered under this Act may be furnished at cost.

(3) Except with the consent of the Registrar, no other document or part thereof relating to any society registered under this Act shall be available for search.

161. (1) The Registrar may of his own accord, and shall on the direction of the Minister, appoint one or more special members to the board of directors of a society, or one or more special officers to manage the affairs of a society, or to assist the persons deemed to have all the powers and duties of directors under the provisions of subsection (3) of section *one hundred and eleven*, or to provide other services required for its management. Appointment of special directors and other officers

(2) The number of special members appointed to the board of directors under subsection (1) shall not exceed one-third of the number of directors prescribed in the by-laws, including the Chairman and the Vice-Chairman.

(3) Action may be taken under subsection (1) if-

- (a) deemed necessary to assist the society to achieve its objects or otherwise deemed to be in the interests of the member; or
 - (b) the society has received a grant-in-aid from the Government or an agency of the Government; or
 - (c) money has been lent to the society by the Government or an agency of the Government and the loan or a portion thereof has not been repaid by the society; or
 - (d) a loan made to the society has been guaranteed by the Government or an agency of the Government, and either such guarantee is still outstanding or the Government or agency of the Government has been called upon to make a payment in respect of such guarantee, and the society has failed to pay to the Government or its agency all or a portion of the sum paid out as a result of the implementation of the guarantee.
- (4) Special members appointed to the board of directors under subsection (1) shall exercise all the powers and responsibilities of directors elected by the members of the society under this Act.
- (5) Special officers appointed under subsection (1) to provide services with respect to the management of the society shall exercise all the powers and responsibilities of officers appointed by or under the authority of directors under this Act.
- (6) Special members appointed to the board of directors under this section may require that a decision of the board in any particular case shall not take effect until it has received the approval of the Minister or the Registrar, as the case may be.
- (7) Special members appointed to the board of directors under this section shall assist the board in its duties and responsibilities as prescribed in section *one hundred and thirteen*, including the provision of training courses for directors and other officers, and in any educational or advisory work respecting co-operative principles and methods carried on among the members of the society under the direction of the board.

(8) The allowance or salary, if any, of a person or persons appointed under subsection (1) shall, if the Registrar so directs, be paid out of the society's funds.

(9) Where the objects of a society include the marketing of agricultural products, the handling of agricultural requisites or the marketing of natural products, management services to be provided to such society by special officers pursuant to action taken under subsection (1) may, with the approval of the Minister, be provided by another society or by or under the direction of a marketing board or other authority established by law for the purpose of marketing agricultural products, handling agricultural requisites or marketing natural products.

(10) Special members of the board of directors or special officers appointed under this section shall continue in office until the Registrar, subject to instructions from the Minister, is satisfied that the administration and management of the affairs of the society can be carried on exclusively by its elected directors, or officers appointed by or under the authority of such directors.

162. (1) When the investigation of the affairs of a society discloses that elected directors or other officers are not performing their duties properly, or that their actions are detrimental to the interest of the members or creditors, the Registrar may of his own accord, and shall on the direction of the Minister, remove such directors or other officers, as the case maybe, from office, and order that the affairs of the society shall be administered by one or more special directors, or managed by one or more special officers, all to be appointed by him.

Removal of
directors and
other officers

(2) Special directors appointed under subsection (1) shall have authority to exercise all the powers and responsibilities of directors elected by members of the society under this Act, and be entitled to receive such allowance or salary, if any, as the Registrar may determine.

(3) Special officers appointed under subsection (1) to provide services with respect to the management of the society, shall have authority to exercise all of the powers and responsibilities of officers appointed by or under the authority of directors of the society under this Act, and be entitled to receive such allowance or salary, if any, as the Registrar may determine.

(4) An order made by the Registrar under subsection (1), including the appointment of special directors or other officers to replace those removed, shall be reported by the Registrar or his representative to the next general meeting of members, giving the reasons therefor.

(5) The allowance or salary, if any, of persons appointed under subsection (1) shall, if the Registrar so directs, be paid out of the society's funds.

(6) Where the objects of the society include the marketing of agricultural products, the handling of agricultural requisites or the marketing of natural products, management services to be provided to such society by special officers pursuant to action taken under subsection (1) may, with the approval of the Minister, be provided by another society or by or under the direction of a marketing board or other authority established by law for the purpose of marketing agricultural products, handling agricultural requisites or marketing natural products.

(7) Special directors or other officers appointed under subsection (1) shall, at such times as the Registrar may approve, call meetings of the members of the society to report to them on the affairs of the society, and shall carry on amongst the members of the society such educational and advisory work respecting co-operative principles and practices as they deem necessary to facilitate resumption of the administration and management of the society by its own directors and officers.

(8) Special directors or other officers appointed under this section shall continue in office until the Registrar, subject to instructions from the Minister, is satisfied that the administration and management of the affairs of the society can be resumed by its own directors and officers.

(9) Appointments of special directors or other officers made under this section, and the cancellation of the appointment of such special directors or other officers, shall be published by notice in the *Gazette*.

163. (1) Where the Registrar is of the opinion that the financial position of a society, or the manner in which it is being operated, as disclosed by

Appointment of administrator

an investigation or an examination under this Act, necessitates the appointment of an administrator to protect the interests of members, he may of his own accord, and shall on the direction of the Minister, appoint an administrator and fix his remuneration.

(2) An administrator appointed under subsection (1) shall have all the powers and may perform all or any of the duties of the board of directors, of any committee or of any other officers, shall be responsible to the Registrar for the conduct of the business of the society, shall carry out all orders and directions of the Registrar with respect to the society and may pay the expenses of his administration out of the funds of the society.

(3) Where an administrator is appointed under subsection (1), no member of the board of directors or of any committee, nor any other officer of the society shall thereafter, so long as the administrator remains in charge of the conduct of the business of the society, exercise any of the powers conferred upon them by this Act, the rules or the by-laws.

(4) The administrator shall take steps and do all things necessary to protect the interests of the members and the rights of the creditors of the society and shall maintain, so far as is practicable, the services of the society to its members.

(5) For the purpose of this section, the administrator shall have access to all books, accounts, securities, documents, vouchers and cash of the society, and shall have control of all the property of the society.

(6) Subject to the approval of the Registrar, the administrator may call a meeting of the members of the society to report to them on the affairs of the society and the steps taken by him to protect their interests.

(7) The administrator shall conduct the business of the society until the Registrar, subject to instructions from the Minister, is satisfied that the administration and management of its affairs can be resumed by its own directors or other officers, or until the society is dissolved and a liquidator appointed.

164. (1) The Minister may constitute a board of not more than five persons to review, at his request- Board of review

(a) applications by societies for grants-in-aid from the Government, or proposals to make such grants-in-aid to societies;

(b) applications from societies for loans from the Government or from an agency of the Government, or for the consolidation or refinancing of such loans if they have not been repaid in whole or in part;

(c) applications from lending agencies for guarantees of the repayment of moneys lent, or to be lent to societies;

(d) the information filed with the Registrar respecting the proposed sale of securities by a society pursuant to subsection (3) of section *one hundred and sixty-six*.

(2) The board may recommend, for the consideration of the Minister, approval of or changes in an application made pursuant to paragraphs (a), (b) and (c) of subsection (1) and may prescribe conditions which have to be complied with by a society before receiving any grant or loan, or before any guarantee is given.

(3) When the board is requested to review the information filed with the Registrar pursuant to subsection (3) of section *one hundred and sixty-six*, the board may, subject to the approval of the Minister, prescribe the manner of creating and setting aside by the society of reserves, or prescribe some other plan to be put into effect by such society for the purpose of ensuring the payment of interest on securities sold and the repayment of the principal sum secured thereby, as and when the interest and principal respectively become due.

(4) If the board disapproves of an application referred to it pursuant to paragraphs (a), (b) and (c) of subsection (1), or of the proposed sale of securities pursuant to paragraph (d) of that subsection, the board shall report the reasons for such disapproval to the Minister.

PART XXIII

MISCELLANEOUS

165. (1) All sums due to the Government from society, or from an officer or member or past member of a society, as such, may be recovered in the manner provided for the recovery of debts due to the Government under the law for the time being in force.

Recovery of
sums due to
Government

(2) Sums due from a society to the Government may be recovered firstly from the property of the society and secondly from the members, subject to the limit of their liability.

166. (1) A credit union registered for the promotion of thrift amongst its members and the creation of a source of credit for its members as provided under section *fifty-three*, and any federation registered for objects and purposes provided in paragraph (c) of section *ninety-one*, shall be exempt from the provisions of any written law specially governing banks.

Special
exemptions

(2) The Minister may, by statutory instrument, remit in the case of any society or class of societies any fee payable under any law requiring registration and for the time being in force:

Provided that such remittance of duty or fees may be withdrawn by the Minister at any time in like manner.

(3) A society shall be exempt from the provisions of any written law for the time being in force governing the sale of securities:

Provided that if the society intends to invite its members or the public, or both, to subscribe for or purchase any bonds or debentures or any other securities of the society, having a definite date of maturity and bearing interest, it shall, before making such offer, file with the Registrar such information as he may require, or as the rules may prescribe, including the amount to be offered for purchase or subscription, the purposes for which the amount to be subscribed or purchased is to be used, and the security to be offered.

(4) Notwithstanding anything in the Trades Licensing Act, or any

Cap. 393

subsequent law relating to trade licensing, it shall not be obligatory upon any society to obtain a licence to carry on trade or business in so far as the trade or business carried on is exclusively with the members of the society.

167. The Minister may, by statutory instrument, exempt any society or class of societies from any of the provisions of this Act under such conditions as he may think fit, or may direct that such provisions shall apply to any society or class of societies with effect from such date or with such modifications as may be specified in the order.	Power to exempt societies from provisions of this Act
---	---

168. (1) No person, other than a society, shall trade or carry on business under any name or title of which the word "co-operative" or of which the words "credit union" constitute a part without the approval of the Minister.	Prohibition of the use of the words "co-operative" or "credit union"
---	--

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred penalty units, and, in the case of a continuing offence, to a further fine not exceeding twenty penalty units for each day during which the offence continues.

(As amended by Act No. 13 of 1994)

169. The provisions of the Companies Act (or any Act which replaces it) shall not apply to a society.	Companies Act not to apply Cap. 388
--	--

170. (1) Any officer or member of a society who-	Offences and penalties
---	------------------------

(a) wilfully fails to give any notice, send any return or document, or fails to do or allow to be done any act or thing which the society is required by this Act to give, send, do or allow to be done; or

(b) wilfully neglects or refuses to do any act or furnish any information required for the purposes of this Act by the Registrar or any other official or person whose duties require him to obtain the information, or wilfully does any act or thing forbidden by this Act; or

(c) wilfully makes a record or a return or furnishes information in any respect false or insufficient;
shall be guilty of an offence.

(2) Any person found guilty of an offence under this Act shall be liable on conviction, where no penalty is specially provided, to a fine not exceeding one thousand penalty units, or to imprisonment for a term not exceeding six months, or to both.

(3) If a society fails or refuses to forward a return or document required by the Registrar for the purposes of this Act, the Registrar may, notwithstanding any other provision of this Act, make an order for the cancellation of the registration of the society and remove its name from the register of societies maintained in his office.

(4) If a society remedies the default referred to in subsection (3), the Registrar may issue a new certificate of registration upon payment of the fees prescribed for that purpose, and restore the society to the register of societies, and thereupon the society shall be deemed to have continued in existence, and the society and all persons shall be in the same position as if the registration of the society had never been cancelled.

(As amended by Act No. 13 of 1994)

171. (1) If any person unlawfully obtains possession of any property or moneys belonging to a society, or, having such property or moneys in his possession unlawfully and without a claim of right, withholds the same or mis-applies the same or wilfully applies the whole or any part thereof to purposes other than those permitted by this Act, the rule or the by-laws, he shall be guilty of an offence. Misdealings
with property

(2) Any person convicted of an offence under subsection (1) may, at the time when sentence is passed, be ordered to return, deliver up or repay the aforesaid property or moneys either forthwith or within a stipulated time and, in default of compliance, to be imprisoned for a term not exceeding six months.

(3) Imprisonment imposed under the provisions of subsection (2) shall terminate forthwith in the event of the property or moneys being

returned, delivered up or repaid before the expiration of the sentence.

(4) No prosecution shall be brought under the section without the written consent of the Director of Public Prosecutions.

172. (1) The Co-operative Societies Act, Chapter 689 of the Revised Edition (hereinafter referred to as the "repealed Act") is hereby repealed. Repeal and savings

(2) Notwithstanding the provisions of subsection (1)-

(a) every society, and all the by-laws of a society, registered under the repealed Act, shall be deemed to have been registered under this Act;

(b) any register kept pursuant to the repealed Act shall be deemed to be part of a register to be kept under this Act;

(c) any documents referring to a provision of the repealed Act shall be construed as referring to a corresponding provision of this Act;

(d) any orders, rules and directions, appointments and other acts, lawfully made or done under a provision of the repealed Act, or appointments made for the administration thereof, and in force immediately before the commencement of this Act, shall be deemed to have been made or done under the corresponding provision of this Act or for the administration of this Act, and shall continue to have effect accordingly in so far as they are not inconsistent with the provisions of this Act.

FIRST SCHEDULE
(Section 19)

POWERS OF SOCIETIES

For the purpose of carrying out its objects, every society shall, subject to the provisions of this Act and the rules, have the following powers unless these powers or any of them are expressly excluded or modified by its by-laws:

- | | | |
|-----|---|------------------------|
| (a) | to purchase, take on lease or in exchange, hire or otherwise acquire and hold any movable or immovable property, and any rights and privileges the society deems necessary or convenient for the attainment of its objects; | Purchase of property |
| (b) | to sell, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the society; | Sale of property |
| (c) | to manage, improve and develop the property of the society; | Management of property |
| (d) | to borrow or raise money-
(i) by mortgage of any of the land or buildings of the society;
(ii) by the issue of bonds or debentures conferring no charge, or a fixed or floating charge, upon all of the assets and undertakings of the society, including its uncalled capital;
(iii) by pledging as security the products, goods, wares, merchandise and other property vested in or acquired by the society; | Borrowing |
| (e) | to enter into any contract or arrangement whatever for or incidental to the attainment of its objects; | Contracts |
| (f) | to make loans or advances to its members; | Loans and advances |
| (g) | to accept the savings of its members; | Savings |
| (h) | to construct, improve, maintain, develop, work, manage, carry out or control any roads, warehouses, factories, buildings, shops, stores and any other works or | Construction of roads, |

conveniences that may seem directly or indirectly calculated to assist to advance the interests of the society and its members;	factories, etc.
(i) to purchase or otherwise acquire or undertake all or any part of the business of, and to assume the whole or any part of the liabilities of, any person, company or another society carrying on any business which the society is authorised to carry on;	Purchase of business
(j) to become a member of, or to take or otherwise acquire and hold shares or securities of, any other society or company with limited liability having objects wholly or in part similar to those of the society, or carry on any business capable of being conducted so as to benefit the society in accordance with its objects, and sell or otherwise deal with the same;	Arrangements with other societies or companies
(k) to become a member of a credit union or of any federation registered with objects described in paragraph (a) (iii) of section <i>ninety-one</i> , and to purchase shares from, or loan to, or borrow money from, such credit union or federation;	Membership in savings and credit societies
(l) to amalgamate with or enter into any agreement for co-operation with any other society having objects wholly or in part similar to the objects of the society;	Amalgamation or partnership
(m) to agree with any persons, company or society to employ and use the same personnel, methods, means or agencies for carrying on and conducting their respective businesses or services;	Co-operation
(n) to enter into any arrangements with the Government or any authority, national, provincial, district, municipal, local or otherwise, that may seem beneficial to the society, and to obtain from the Government or authority any rights, privileges and concessions which the society may think it desirable to obtain, and carry out, exercise and comply with such arrangements, rights, privileges and concessions;	Arrangements with Government and other authorities
(o) to draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, bills of lading, warrants and other negotiable or transferable instruments;	Promissory notes, etc.
(p) save as provided in section <i>fifty-seven</i> (which relates to credit unions), to invest or deposit moneys of the society not immediately required-	Investment of funds
ii(i) in the Post Office Savings Bank; or	
i(ii) in any commercial bank in Zambia; or	
(iii) in any securities issued or guaranteed by the Government; or	
(iv) in such other manner as may be decided by the board of directors and either sanctioned by this Act or the rules, or approved by the Registrar;	

(q)	to become a member of such other society or company as the Registrar may permit for the purpose of establishing and supporting or aiding in the establishment and support of trusts, funds and institutions calculated to benefit members, employees or ex-employees of the society, or the dependants or relatives of such persons, to grant benefits and allowances, and to make payments towards insurance;	Benefits to members and employees
(r)	to subscribe or guarantee money for local organisations with objectives beneficial to the community;	Support of community organisations
(s)	to issue fully paid-up shares of capital stock or other securities of the society to a member in payment or part payment of any immovable or movable property purchased or otherwise acquired by the society from that member, or for labour, services or materials sold to the society by that member;	Issue of shares for property or services
(t)	to sell or dispose of the undertaking of the society or any part thereof for such consideration as the society thinks fit;	Sale of undertaking
(u)	to carry on, encourage and assist educational and advisory work relating to co-operation and the objects of the society;	Co-operative education
(v)	to enlarge the business of the society and its services to members by the operation of branches;	To operate branches
(w)	to take or hold mortgages, hypothecs, liens and charges to secure the price of any part of the property of the society of whatever kind sold by the society or any money due to the society, and to assign or otherwise dispose of the said mortgages, hypothecs, liens and charges;	Hold mortgages and liens
(x)	to appoint or employ such officials, servants or other persons as the board of directors thinks necessary, to fix the terms and conditions of their appointment or employment, and to pay them remuneration according to these terms and conditions;	Appointment of officials
(y)	generally to carry on and undertake any business or service which may seem capable of being conveniently carried on in connection with the objects of the society, or calculated directly or indirectly to benefit the society and its members, and to insure against any losses, damage, risks or liabilities which the society may incur.	General powers

SECOND SCHEDULE
(Section 20)

**MATTERS REQUIRED TO BE IN THE
BY-LAWS OF A SOCIETY**

Every society shall have by-laws in respect of the following matters:

1. The name of the society.
2. The place and postal address of its registered office.
3. The objects for which the society is established.
4. The value of each share if the society is formed with capital divided into shares, and whether the capital is limited or unlimited in amount.
5. The qualifications for membership.
6. The minimum number of shares to be subscribed for by each member as a condition of being admitted to membership, the minimum amount payable on application on each share so subscribed which shall not be less than ten per centum of its value, the method of payment of the amount, if any, remaining unpaid on the minimum subscription for shares, and the method of allotment of and payment for any additional shares.
7. If there is no share capital, the terms of membership and the basis on which the interest of the member in the society will be determined.
8. The entrance fee, if any.
9. The annual membership fee, if any.
10. The purposes to which funds may be applied.
11. The composition of the board of directors.
12. The manner of distributing the net surplus.
13. The conditions on which a member may withdraw from membership.
14. The geographical area of operation of the society.
15. The term of office of the directors.
16. The holding of annual general meetings.
17. The honorarium (if any) to be paid to the officers of the society.
18. The dates of the society's financial year.
19. Subject to the provisions of section *seventy-nine* in the case of a credit union, the method of constituting, operating and allocating the reserve fund and the amount or method of fixing the amount to be contributed thereto.
20. Such other matters concerning the administration and operation of the society as may be required by the rules or by the Registrar.

SUBSIDIARY LEGISLATION

THE CO-OPERATIVE SOCIETIES ACT THE CO-OPERATIVE SOCIETIES RULES [ARRANGEMENT OF RULES]

PART I PRELIMINARY

Rule

1. Title
2. Interpretation

PART II GENERAL RULES FOR CO-OPERATIVE SOCIETIES

Procedures for Registration

3. Application for registration
4. Decision on application
5. Additional requirements for registration
6. Certificate of registration and change of name
7. Refusal to register
8. Refund of fees
9. Qualifications for membership
10. Application for membership
11. No membership without cash payment
12. Rights of minors
13. Nominees
14. Withdrawals from membership

Meetings

15. First general meeting
16. Annual general meeting
17. Semi-annual meeting
18. Other general meetings
19. Notice of meetings
20. Quorum
21. Adjournment
22. Extension of term of office

Rule

23. Chairman of annual general meeting
24. Order of business at annual general meeting
25. Order of business at special meeting
26. Voting

Nominations and Elections

27. Elections and terms of office
28. Nominations (two optional methods)
29. Nominations may be seconded
30. When balloting necessary
31. All elections by secret ballot
32. Ballots void
33. Procedure for elections
34. Order of elections
35. Destruction of ballots
36. Election report to Registrar

Duties and Procedures of Directors

37. Election of directors
38. Officers
39. Other officers
40. Special committees appointed by board of directors
41. Supervision of special committees

- 42. Regular meetings of board of directors
- 43. Special meetings of board of directors
- 44. Quorum at directors' meetings
- 45. Agenda for directors' meeting
- 46. Procedure of directors' meetings
- 47. Failure to attend board meetings
- 48. General duties of directors
- 49. Membership information
- 50. Declaration of officers

Duties of Officers

- 51. Duties of Chairman
- 52. Duties of Vice-Chairman

Rule

- 53. Duties of Secretary
- 54. Duties of Treasurer and annual financial statement
- 55. Duties of Secretary-treasurer
- 56. Duties of manager

No Conflict of Interest

- 57. Action to be taken

PART III

SPECIAL RULES FOR CREDIT UNIONS

Objects and Services

- 58. General services and membership
- 59. Services to member organisations
- 60. Special deposit services
- 61. Loans for farm land and the erection of dwellings
- 62. Loans for business purposes
- 63. Total amount of loans for land, buildings and business

purposes

- 64. Loans to officers
- 65. Preference in the granting of loans

Temporary Suspension of Loaning Operations

- 66. Suspension and resumption of loaning operations

Withdrawals of Shares and Deposits

- 67. Methods of withdrawal

Cash Fund to Meet Withdrawals

- 68. Cash fund
- 69. No overdrafts allowed

Use of Passbook

- 70. Entries in passbook or other statement

Investment in Land and Buildings

- 71. Purpose and value

Special Duties of Directors of Credit Unions

- 72. Special duties

Credit Committee and Loans

Rule

- 73. Organisation
- 74. Quorum
- 75. Special duties
- 76. Undesirable loans
- 77. Loan applications and promotion of thrift
- 78. Guarantor
- 79. Shares as security
- 80. Loans in special cases
- 81. Meetings
- 82. Records
- 83. Inspection of records

- 84. Report to directors
- 85. Report to annual general meeting

Supervisory Committee and Auditor

- 86. Organisation
- 87. Persons ineligible for appointment
- 88. Meetings
- 89. Vacancies
- 90. Special duties of supervisory committee
- 91. Verification of members' accounts
- 92. Report to annual general meeting
- 93. Presentation of inspection or auditor's report

Uncollectable Loans

- 94. Uncollectable loans and charge-offs
- 95. Limitation of payments

Appointment of Auditor

- 96. Appointment

Inspection of Credit Unions

- 97. Evaluation of loans
- 98. Discussion of inspection report with officers
- 99. List of loans in arrears

PART IV

MISCELLANEOUS

Use and Maintenance of a Reserve Fund

Rule

- 100. Use of reserve fund
- 101. Investment of moneys in reserve fund

Use of Petty Cash Fund

- 102. Restricted use of petty cash fund

Inspection and Technical Advice

- 103. Discussion of inspection report with officers of a society
- 104. Special services by co-operative federations
- 105. Special services by Government agencies
- 106. Special services by advisory officers and members

Appointment of Auditor

- 107. When appointment required
- 108. Audit fees payable to Registrar under certain conditions

Charges by Societies

- 109. Form of register and forms for registration and discharge

FIRST SCHEDULE-Prescribed forms

SECOND SCHEDULE-Prescribed fees

SECTION 156-THE CO-OPERATIVE SOCIETIES RULES Rules by the Minister

***Statutory
Instrument
39 of 1972
96 of 1987
19 of 1994
4 of 1997
Act No.
13 of 1994***

PART I

PRELIMINARY

1. These Rules may be cited as the Co-operative Societies Rules.

Title

2. In these Rules, unless the context otherwise requires-

Interpretation

"board of directors" means the governing body of a society to whom the supervision and direction of its affairs are entrusted by the members, and shall be deemed to have the same meaning as the word or words

"committee" or "managing committee" in the by-laws of a society;

"by-laws" means the by-laws of a society registered under the Act or registered under the former Co-operative Societies Act;

"credit union" means a "savings and credit society" or "thrift and credit society" registered with objects in accordance with section *fifty-three* of the Act;

"Form" means a form set out in the First Schedule;

"Registrar" means the Registrar of Co-operative Societies or any person authorised to act for the Registrar;

"society" includes a credit union, a co-operative union or federation.

PART II

GENERAL RULES FOR CO-OPERATIVE SOCIETIES

Procedures for Registration

3. (1) Every application for registration of a society shall be in Form 1, together with or preceded by the information prescribed in Form 2 as may be required, and accompanied by the fee prescribed in the Second Schedule. Application for registration

(2) The application shall be submitted in triplicate and each copy thereof shall be signed and accompanied by a copy of the by-laws of the proposed society.

(3) No society with share capital shall be registered unless the applicants for registration have subscribed for such minimum number of shares as may be prescribed in the by-laws as a condition of membership, and have paid in cash not less than one-quarter of the value

of each share so subscribed, or such other portion of the value prescribed in the by-laws with the approval of the Registrar, and have paid the entrance fee, if any:

Provided that the Registrar is satisfied that the share capital to be furnished initially by the applicants and other persons expected to become members will be sufficient for the commencement of operations, having regard to the share capital and other funds necessary to achieve the objects of the proposed society.

(4) No society without share capital shall be registered unless the applicants for registration have paid in cash the initial membership fee prescribed in the by-laws, or have complied with any other initial financial participation with respect to membership so prescribed, and have paid the entrance fee, if any:

Provided that the Registrar is satisfied that the membership fees or any other funds to be furnished initially by the applicants and other persons expected to become members will be sufficient for the commencement of operations, having regard to such membership fees and other funds necessary to achieve the objects of the proposed society.

4. (1) Subject to rule 5, the Registrar shall make a decision within thirty days of the receipt of an application for registration as to whether or not he approves of such application, or whether he requires additional information in accordance with section *eleven* of the Act before making such decision, and shall notify the applicants for registration accordingly.

Decision on
application

5. In order to determine whether registration is economically or otherwise advisable in any particular case, the Registrar may prescribe one or more of the following requirements before registration:

Additional
requirements
for registration

(a) that additional information be provided to show whether the proposed society meets an economic, social or cultural need, and has reasonable prospects for achieving its objects;

(b) that the applicants for registration obtain support from more persons who may be expected to become members;

(c) that more capital be furnished initially by the applicants for registration and other persons expected to become members, and that such additional capital be sufficient for the commencement of

operations;

(d) that arrangements be made for more educational and advisory work respecting co-operative principles and practices and the objects of the proposed society among the applicants for registration, and among other persons who may be expected to become members;

(e) that there be sufficient assurance respecting the availability of officers capable of directing and managing the affairs of the proposed society and of keeping adequate records and books of account as prescribed by the Registrar under the Act, and that, if necessary, such officers be required to undergo such additional training as the Registrar deems necessary.

6. (1) If the Registrar approves of registration he shall issue a certificate of registration to the society in Form 3, together with a copy of the application and by-laws certified by him, with a copy of the application and by-laws certified by him, and shall cause such registration to be published by notice in the *Government Gazette*. Certificate of registration and change of name

(2) Notwithstanding sub-rule (1), a registered society may by amendment to its by-laws change its name.

(3) The Registrar, if he is satisfied that the change of name is not objectionable, shall enter the new name on the register of co-operative societies in place of the former name, issue to the society a certificate showing the change of name, and shall cause a notice of the change of name to be published in the *Government Gazette*.

(4) The change of name of a registered society shall not affect any rights and obligations of the society, or render defective any legal proceedings by or against the society, and any legal proceedings that might have been continued or commenced against it in its former name, may be continued or commenced against it in its new name.

7. If, as a result of information provided to him by the applicants for registration under rule 3 or notwithstanding any additional requirement for registration prescribed under rule 5, the Registrar is of the opinion that registration is not economically advisable or he is otherwise unable to approve of registration, he shall give specific reasons for such refusal in writing to the Minister and to the applicants for registration. Refusal to register

8. If an application for registration is not approved in accordance with rule 7, registration fees received by the Registrar shall be refunded immediately to the applicants for registration.

Refund of fees

9. A person who, in the opinion of the directors, is honest, industrious, self-reliant and of good habits, or a society or other organisation referred to in the Act, shall be eligible for membership in a society if the applicant for membership complies with the provisions of the Act, the rules and the by-laws of the society with respect to membership.

Qualifications
for membership

10. An application for membership shall be in Form 4 duly signed by the applicant and, where the applicant is an individual person, shall be endorsed in writing by a director or a member of the society in good standing or other reliable person, and shall be presented to a regular or a special meeting of the board of directors for approval or rejection:

Application for
membership

Provided that, if an applicant is unable to sign his name, such applicant shall make his mark on the application form and it shall be duly witnessed by a director, a member, or other reliable person.

11. No applicant for membership shall be admitted to membership or exercise the rights of membership unless such applicant-

No membership
without cash
payment

(a) has subscribed for such minimum number of shares prescribed in the by-laws as a condition of membership and has paid in cash not less than one-quarter of the value of each share so subscribed, or such other portion of the value as the by-laws may prescribe, and has paid the entrance fee, if any; or

(b) in the case of a society registered without share capital, has paid in cash the membership fee prescribed in the by-laws, and has complied with any other initial financial participation with respect to membership so prescribed, and has paid the entrance fee, if any.

12. (1) A minor may be a member if provided in the by-laws, but where such minor is under the age of sixteen years his parent or guardian shall be informed of his desire to become a member and to open a share account or pay a membership fee, as the case may be.

Rights of
minors

(2) Where the parent or guardian has been informed of a share or deposit account held by a minor under the age of sixteen years and no

restrictions on the account are imposed by the society, a minor may make payments to and withdraw money from such account, or make such other use of the account as deemed desirable without the approval of his parent or guardian.

(3) A minor under the age of sixteen years who makes use of the services of the society in accordance with sub-rule (1) or (2) shall have all the rights of a member except the right to vote.

(4) Shares may be held and deposits may be made in a society by a duly authorised person on behalf of a junior savings club or other junior organisation, and withdrawals may be made on behalf of such club or organisation with the written approval of the person authorised to hold shares or to make such deposits.

13. (1) Every member of a society may at the time or after he becomes a member nominate in writing, with two attesting witnesses, one person who, in the event of his death, will succeed to his shares or other interest in the society, and the name of such nominee shall be entered in the membership register if the nominee is eligible for membership. Nominees

(2) In the event of such nominee not becoming a member or not being admitted to membership by the directors, the value of the shares or other interest shall nevertheless be paid to him in accordance with sub-rule (4).

(3) In the event of such nominee dying or of the member desiring to cancel such nomination, the member may from time to time nominate in writing another person in the same manner as in sub-rule (1), and the necessary alterations shall be made in the records of the society.

(4) For the purpose of a transfer to the nominee, or to the legal representative if there is no nominee, the value of any shares or other interest shall include the sum actually paid to the society by the member or credited to his share capital or other account from time to time out of the earnings of the society in accordance with the by-laws.

(5) Where any money is paid to a nominee who is a minor, a receipt given either by the minor or by his parent or guardian shall be a

sufficient discharge to the society making such payment.

14. (1) A member may withdraw from the society upon giving such notice as may be required by the by-laws, or such additional notice as the directors may deem necessary in any particular case and approved by the Registrar.

Withdrawals
from
membership

(2) Without restricting the generality of the foregoing, additional notice may be required if the member is a borrower or guarantor of a loan owing to the society, or is otherwise indebted to the society.

(3) No member withdrawing shall be entitled to a refund of his membership fee.

Meetings

15. (1) Unless otherwise provided in the by-laws, every society shall, within two months from the receipt of the certificate of registration, unless the time is extended by the Registrar, hold a general meeting at which all members shall be entitled to be present and to vote.

First general
meeting

(2) The business of the first general meeting shall include the election of directors and committees, if any, who shall serve until re-elected or their successors are elected at the first annual general meeting.

16. Every society shall hold an annual general meeting of its members or delegates in every calendar year as prescribed in the by-laws:

Annual general
meeting

Provided that such meeting shall, unless otherwise approved by the Registrar, be held within six months of the close of the previous financial year of the society.

17. A semi-annual business meeting of a society may be held in any year for the purpose of reviewing the operations of the society.

Semi-annual
meeting

18. Other general meetings of a society may be held quarterly or at such other times as may be determined by the directors.

Other general
meetings

19. (1) Unless the by-laws provide that the notice giving the date, time and place of the annual, semi-annual, special or other members' or delegates' meeting of a society shall be advertised in one issue of a newspaper circulating in the city, town or other locality in which the registered office of the society is located, notice of all meetings shall be mailed or otherwise sent, or made available to each member or delegate of the society at his last known address.

Notice of
meetings

(2) At least twenty-one days' notice shall be given of every meeting whether by advertisement, mail or otherwise.

(3) The notice shall contain a statement of the purpose of the meeting, and, wherever practicable, the agenda for the meeting shall be made available to each member or delegate before the meeting is held.

(4) The non-receipt by a member of a notice or information respecting the date, hour and place of a meeting shall not invalidate the proceedings or the business transacted at the meeting.

20. (1) The by-laws may prescribe the quorum at a general meeting of a society:

Quorum

Provided that in no instance where the society is comprised of individual persons shall the number to constitute a quorum be less than the number of directors plus one, except where the Registrar calls a meeting of a society in accordance with section *one hundred and twenty-seven* of the Act when the quorum shall be the number of members or delegates in attendance at such meeting.

(2) Where the by-laws of a society do not prescribe a quorum, the provisions of section *one hundred and twenty-six* of the Act shall apply to that society.

21. If a quorum is not present within one hour from the time appointed for any meeting of a society in a rural area, or within thirty minutes of the time appointed for any meeting of a society in a city or town, the meeting shall stand adjourned until called again by the directors, or an application is made to the Registrar for direction or assistance from him with respect to calling the meeting.

Adjournment

- | | |
|--|--|
| <p>22. Where a society has been unable to hold an annual general meeting within the period prescribed by its by-laws or rule 16, and as a result the election of directors and committee members required to be elected has not taken place, the term of office of retiring directors or committee members shall not expire until they are re-elected or their successors are elected at a general or a special meeting.</p> | <p>Extension of term of office</p> |
| <p>23. Unless the members or delegates nominate some other member or delegate to be Chairman of the meeting, the Chairman of the board of directors or the Vice-Chairman shall be Chairman of the annual general meeting and other general or special meetings of the society.</p> | <p>Chairman of annual general meeting</p> |
| <p>24. The order of business at the annual general meeting shall include-</p> <ul style="list-style-type: none"> (a) registration and call to order by the Chairman; (b) reading and approval or correction of the minutes of the last annual general meeting; (c) business arising out of the minutes; (d) report of the directors (managing committee); (e) report of the Treasurer, Secretary-treasurer or manager, and consideration of the financial statement; (f) reports of other committees (if the society is a credit union, this shall include reports of the credit committee and the supervisory committee); (g) report of auditor, if any; (h) adoption or other disposal of reports; (i) apportionment of the net surplus as recommended by the directors according to the by-laws and the Act; (j) amendments to by-laws, if any; (k) elections; (l) appointment of auditor where required; (m) unfinished business; (n) new business; (o) adjournment. | <p>Order of business at annual general meeting</p> |
| <p>25. The order of business at a special meeting shall be-</p> | <p>Order of</p> |

- (a) registration and call to order;
 - (b) election of a Chairman if the Chairman of the board of directors or other person who calls the meeting to order is not to be the Chairman of the meeting;
 - (c) reading of notice of meeting;
 - (d) consideration of the matter or matters for which the meeting has been called and which have been specified in the notice of meeting;
 - (e) adjournment.
- business at
special meeting

26. (1) Except as provided in rule 12 (3) respecting minors under the age of sixteen years, each member who has complied with the provisions of the by-laws respecting admission to and the maintenance of membership in the society, or delegate elected by the members of the society from a district thereof, or any delegate representing a member society or other organisation, or any special director appointed by the Registrar in accordance with section *one hundred and sixty-one* or *one hundred and sixty-two* of the Act, shall have one vote at a meeting of a society.

Voting

(2) Except in the case of a special resolution as defined in section *two* of the Act or a resolution to amend the by-laws in accordance with section *twenty-one* of the Act, a majority of the members or delegates present at a meeting where there is a quorum shall decide all questions.

(3) A resolution put to the vote of the meeting shall be decided by a show of hands unless a poll is demanded by at least three members or delegates present.

(4) If a poll is demanded it shall be taken by ballot in such manner as the Chairman of the meeting directs.

(5) The Chairman of the meeting at which a show of hands takes place to decide a question or a resolution, or at which a poll is demanded, shall have the right to vote and shall have a second or a casting vote in the event of an equality of votes.

Nominations and Elections

27. (1) Subject to section *one hundred and twelve* of the Act, the election of directors and other committees to be elected shall take place at the annual general meeting of a society or at a special meeting called for the purpose.

Elections and
terms of office

(2) The by-laws may provide that the directors, who shall not be less than five, and members of other committees, if any, shall be elected for one, two or three year terms and, subject to sub-rule (4), shall be eligible for re-election.

(3) (a) Where the by-laws provide that the directors shall be elected for a one year term at a time, the directors elected at the first general meeting held after the receipt by the society of its certificate of registration shall hold office until the first annual general meeting when their successors are elected. At each annual general meeting thereafter, directors shall be elected to replace those retiring and shall hold office for one year.

(b) Where the by-laws provide that the directors shall be elected for a two year term at a time, the directors elected at the first general meeting held after receipt by the society of its certificate of registration shall be elected to hold office until the first annual general meeting when their successors are elected. At the first annual general meeting the number of directors designated in the by-laws shall hold office until the second annual general meeting, and the number of directors designated in the by-laws shall be elected to hold office until the third annual general meeting. At each annual general meeting thereafter, directors shall be elected to replace those retiring and the directors so elected shall hold office for a two year term.

(c) Where the by-laws provide that the directors shall be elected for a three year term at a time, the directors elected at the first general meeting of the society held after receipt of its certificate of registration shall be elected to hold office until the first annual general meeting when their successors are elected. At the first annual general meeting the number of directors designated in the by-laws shall be elected to hold office until the third annual general meeting, and the number of directors designated in the by-laws shall be elected to hold office until the fourth annual general meeting. At each annual general meeting thereafter, directors shall be elected to replace those retiring and directors so elected shall hold office for a term of three years.

(4) Notwithstanding sub-rules (2) and (3), the by-laws may provide that no director shall hold office for a period of more than six consecutive years from the time he was first elected at an annual general meeting without standing down for a period of one year, after which he may be nominated at the annual general meeting held at or immediately following the end of such year.

(5) Unless the by-laws of a credit union provide that the members of the credit committee, who shall be not less than three in number, shall be appointed by the board of directors, the by-laws shall provide that the members of such committee shall be elected at the annual general meeting and the provisions as to term of office and election procedure set forth in sub-rule (3) (c) shall apply.

(6) (a) Where the by-laws of a credit union provide that the three members of the supervisory committee shall be elected by the members at an annual general meeting, the procedure prescribed in the by-laws shall be as in sub-rule (3) (c).

(b) Where the by-laws of a credit union provide that one member of the supervisory committee shall be appointed by the board of directors and the remaining two members by the membership of the credit union at the annual general meeting, the procedure shall be as follows:

(i) at the first annual general meeting held after receipt by the credit union of its certificate of registration, one member of the supervisory committee shall be appointed by the board of directors and the remaining members elected by and from the membership. This committee shall hold office until the first annual general meeting;

(ii) after the first annual general meeting the member of the supervisory committee appointed by the directors shall hold office for one year. Of the two members of the supervisory committee elected by the members of the credit union at the first annual general meeting, the first member, or the one receiving the highest number of votes cast, shall hold office for three years and the second for two years. Thereafter, as each term expires the election or appointment, as the case may be, shall be for a period of three years.

28. (1) Unless the by-laws provide otherwise the Chairman may, with the approval of the directors, at or before the meeting, appoint a nominating committee of three members who shall, with the consent of the nominee, place in nomination one or more names for each vacancy, but after the report of the nominating committee has been placed before the meeting the Chairman shall call for additional nominations from the meeting, and after a reasonable time has elapsed a motion to close nominations shall be in order.

Nominations
(two optional
methods)

(2) If no nominating committee is appointed, nominations shall take place from the meeting only.

29. Nominations may be seconded, but where the nominee is not present at the meeting his consent to stand for election shall be obtained either in advance by the nominating committee or be presented in writing by the nominator and the seconder at the time of nomination.

Nominations
may be
seconded

30. When there are two or more candidates for any office a ballot shall be taken, but where only one member is nominated for the office the Chairman shall declare such member elected.

When balloting
necessary

31. All elections shall be held by secret ballot:

All elections by
secret ballot

Provided, however, that if a member is unable to write, a person appointed by the returning officer may assist such member by writing on the ballot the name of the candidate or each candidate for which the member wishes to vote.

32. If a member places more or less names on the ballot than the number to be elected, his vote shall not be counted.

Ballots void

33. (1) When nominations are closed, the Chairman of the meeting shall appoint a returning officer and one or more persons to assist him as required. They shall distribute the ballots, and when the vote has been taken they shall collect and count them, and the returning officer shall announce the results to the meeting.

Procedure for
elections.

(2) The method of election shall be that with one ballot and the candidate or candidates receiving the highest number of votes cast shall be declared elected.

(3) Where candidates are to be elected for varying terms with one ballot, the candidates receiving the highest number of votes cast shall be declared elected for the longest or the longer term, as the case may be.

(4) (a) If two or more candidates receive an equal number of votes the meeting may, by resolution carried by a clear majority of those present, provide that a second ballot be taken.

(b) If the meeting does not decide that there shall be a second ballot, then the returning officer, in the event that the equality of votes is not broken by withdrawal of one or more candidates, shall write the names of such candidates separately on blank sheets of paper of equal size and the same colour and texture and, after folding the same in a uniform manner so that the names are concealed, deposit them in a container and direct some person to withdraw one of the sheets or such greater number as are required to complete the election; and the candidate or candidates whose name or names appear on the sheets so withdrawn shall be declared elected by the returning officer.

34. Where, in addition to the board of directors, one or more committees are to be elected, as in a credit union, the order of elections shall be as follows:

Order of
elections

(a) election of directors;

(b) election of credit committee if not appointed by the directors (for credit unions only); and

(c) election of members of supervisory committee except where one member thereof is to be appointed by the directors (for credit unions only).

35. After the results of the vote have been determined, the Chairman of the meeting shall order the ballots to be destroyed.

Destruction of
ballots

36. Within twenty-one days after the election the names and addresses, together with information respecting the terms of office of all persons

Election report
to the Registrar

elected, shall be forwarded to the Registrar by the Secretary of the society.

Duties and Procedures of Directors

37. At the first general meeting of the society a board of directors according to the number designated in the by-laws, which shall not be less than five, shall be elected by and from the members to retain office until the first annual general meeting of the society, and until they are re-elected or their successors are elected as provided in the by-laws.

Election of
directors

38. (1) The directors shall meet within twenty-one days after their election following the first general meeting and following each annual general meeting thereafter, and shall organise for the current year by electing a Chairman and one or more Vice-Chairmen from their number, and shall appoint a Secretary, Treasurer, or a Secretary-treasurer, who need not be a member of the society.

Officers

(2) Notwithstanding sub-rule (1), the directors may appoint a manager who may also be appointed annually to perform the duties of Secretary or Treasurer or Secretary-treasurer, as the case may be.

39. If the society is a credit union the directors shall, if the by-laws so provide, appoint a credit committee of not less than three members and one member of the supervisory committee.

Other officers

40. (1) In carrying out their duties as required by the Act, the directors may appoint an executive committee consisting of the Chairman, the Vice-Chairman, and one other director. The duties of the executive committee shall include-

Special
committees
appointed by
board of
directors

(a) carrying out decisions made by the directors at board meetings where necessary;

(b) to take such action as may be necessary between board meetings to achieve the objects of the society and safeguard the interests of members; and

(c) to make such recommendations to the board of directors with

respect to the affairs of the society as may be deemed necessary from time to time.

(2) When a society provides credit to farmers in accordance with sections *thirty-five* and *thirty-six* of the Act, or is permitted by its by-laws to sell consumers' goods on credit as provided in section *eighty-three* of the Act, the directors may appoint a committee to supervise credit whose duties shall include-

(a) examining regularly the condition of credit transactions and reporting to the directors whether the administration of credit is in accordance with the policies laid down by the directors at board meetings;

(b) seeing to it that a loan made or credit granted to a member is used efficiently by him and only for the purpose for which such loan or credit was made or granted;

(c) where a loan or a credit account is in arrears, recommending measures to ensure the repayment of the debt; and

(d) recommending where necessary improved methods for the administration of credit or the curtailment or the termination of credit services in connection with such goods or commodities as may be deemed necessary.

(3) The directors may appoint a co-operative education and training committee to keep the membership of the society informed about co-operative principles and practices and the progress of their society, to foster co-operation with other co-operative organisations, and to arrange for programmes of membership education and training courses for officers.

41. Minutes of all special committee meetings shall be kept by the Secretary of the society and minutes and reports of the work of such committees shall be made available to the directors. All special committees shall be subject to general direction and supervision by the board of directors.

Supervision of
special
committees

42. Regular meetings of the board of directors shall be held at least monthly and at such other times as may be required by the business of

Regular
meetings of

the society.

board of
directors

43. Special meetings of the board of directors may be called by the Chairman at any time and shall be called upon the written request of a majority of the directors.

Special
meetings of
board of
directors

44. Unless the by-laws otherwise provide, the quorum at a directors' meeting shall be the majority of directors, including special directors, if any.

Quorum at
directors'
meetings.

45. The agenda for the regular meeting of the board of directors shall include the following:

Agenda for
directors'
meeting

- (a) call to order by the Chairman;
- (b) reading and disposal of the minutes of previous meeting;
- (c) new applications for membership;
- (d) report on proposed withdrawals from membership;
- (e) consideration and disposal of monthly or other financial and progress reports respecting the business of the society;
- (f) reports of committees, if any;
- (g) report of auditor, if any;
- (h) report of the inspection and audit of the society by the Registrar, when available;
- (i) other business required by the Act;
- (j) new business;
- (k) date of next meeting; and
- (l) adjournment.

46. (1) Except as otherwise provided in the Act, including sections *fifty-eight* and *one hundred and ten*, a majority vote at a directors' meeting at which a quorum is present shall be sufficient for the transaction of business at board meetings.

Procedure of
directors'
meetings

(2) The Chairman of the board of directors or other presiding officer may vote on any question and shall have a second or a casting vote in the

event of an equality of votes.

47. (1) Should a member of the board of directors be absent from two consecutive meetings of the board without good reason, the other directors may, unless the by-laws provide otherwise, pass a resolution at a properly called board meeting at which a quorum is present, that the Secretary inform the member by written notice that unless he attends the next meeting of the board when called, his office as director shall be declared vacant by the board of directors.

Failure to attend board meetings.

(2) If the director fails to attend the next meeting of the board of directors notwithstanding the notice sent to him as in sub-rule (1) provided, the other directors may, by resolution passed at a properly called board meeting and by written notice sent to him to that effect, declare his office vacant and fill the vacancy until the next annual general meeting of the society.

48. In carrying out their duties to direct and supervise the business and property of the society the directors shall-

General duties of directors

- (a) approve or reject applications for membership in the society;
- (b) have power to appoint, define the duties of, terminate the services of, and, as may be required, determine the remuneration of the Secretary-treasurer or the Secretary and Treasurer, or the manager, or co-operative education secretary, and of such other employees of the society, if any, as they deem necessary for the achievement of its objects;
- (c) examine carefully and regularly the condition of the business and property of the society, and require the manager or Secretary-treasurer or such other employee as may be in charge of the society's records to provide monthly or quarterly, or at such other times as the directors may determine, a report or reports disclosing the results of operations and financial condition of the society during a specified period, and a comparison of such information with the results of operations during a similar period of the previous year;
- (d) (i) require every person appointed to an office relating to the receipt and expenditure of money of the society, or the supervision of goods and commodities of the society, including any employee with these responsibilities and any person appointed as signing officer, to furnish, in addition to any other security required, a fidelity guarantee bond of such minimum amount set forth in a schedule prescribed by the Registrar from time to time;

(ii) arrange for fire insurances, burglary and hold-up insurance, and any other form of insurance necessary to protect the business and property of the society;

(e) designate a commercial bank, registered building society, the Post Office Savings Bank, a federation registered under section *ninety-one* of the Act, or other organisation authorised to receive money on deposit in which funds of the society shall be deposited;

(f) see to it that a proper set of records and books of account for the purposes of the society are kept and maintained by an officer with sufficient knowledge or training for the purpose;

(g) supervise credit transactions of the society, if any, and examine regularly the condition of accounts receivable and accounts payable, and curtail or terminate credit transactions for such period as may be deemed advisable to safeguard the interests of the society and its members;

(h) when an officer responsible to the directors for the supervision of funds, goods or commodities of the society, ceases for any reason to be so responsible, prepare or cause to be prepared, immediately before his successor is appointed, an account of such funds, or an inventory of such goods or commodities, as the case may be;

(i) direct or supervise the taking of an inventory at least annually of goods or commodities on hand, if any, that are sold or marketed by the society;

(j) prepare a recommendation to the annual general meeting respecting the apportionment of the annual net surplus as provided in the Act and the by-laws;

(k) approve or prepare for submission by the Chairman a report to the annual general meeting respecting the work of the directors during the preceding financial year, the progress of the society during such year, together with such recommendations as appear necessary to achieve the objects of the society and improve services to members.

49. The directors shall, with the assistance of a co-operative education and training committee, if any, appointed under rule 40 (3), keep the members informed regarding the business of the society and encourage interest, support and a sense of ownership on their part by-

Membership
information

(a) presenting to the members periodic reports regarding the condition of the society, its services and objects;

(b) publicising the activities of the society in newspapers and in other ways;

(c) carrying on, encouraging and assisting educational work relating

to co-operatives and the objects of the society, including support of youth groups to facilitate their participation in co-operative and community affairs; and

(d) providing that after each annual general meeting each member of the society, other than a community service society organised in accordance with section *eighty-eight* of the Act, receives a statement or other information showing his share capital or other interest in the society after the apportionment of the annual net surplus for the preceding financial year.

50. All directors, members of committees, and employees of a society with responsibility for the direction or management of its affairs or the provision of services to members in accordance with its objects shall, annually or upon being elected or appointed to office or employment, sign a declaration in Form 5 relating to-

Declaration of officers

(a) faithful performance of duties;

(b) keeping in strict confidence business transacted between the society and its members.

Duties of Officers

51. The Chairman of the board of directors shall preside at the opening and closing of all meetings of a society and of the board of directors, and his other duties shall include-

Duties of Chairman

(a) exercising general supervision over the officers and the business of the society;

(b) calling all meetings;

(c) presenting to the annual meeting the directors' report on the affairs of the society;

(d) presenting to the annual meeting the recommendation of the directors respecting the distribution of the net surplus according to the Act and the by-laws;

(e) countersigning all cheques, notes, bills of exchange and other negotiable instruments for carrying on the business of the society, unless some other person or persons are authorised to do so by resolution of the board of directors; and

(f) performing such other duties and transacting such other business that customarily relate to his office.

52. In the absence or inability of the Chairman to carry out his duties,

Duties of

all the rights and powers of the Chairman shall for the time being be vested in the Vice-Chairman and, in the case of the office of the chairman becoming vacant, the Vice-Chairman shall act as Chairman until the next annual general meeting.

Vice-Chairman

53. The Secretary shall attend and keep a record of all meetings of the society and of the board of directors, have custody of the seal of the society, conduct correspondence on behalf of the society, sign share certificates or membership certificates and, with the Chairman or other authorised officers, sign contracts, and sign, execute and deliver all deeds and conveyances of property which the directors may order executed.

Duties of
Secretary

54. The Treasurer, who may act as the manager of the society under the orders of the board of directors, shall-

Duties of
Treasurer and
annual financial
statement

(a) receive and deposit in whatever depository the directors may order all moneys received by and paid to the society, and give receipts therefor;

(b) with the Chairman or any other person or persons authorised by the directors, sign all cheques, notes, bills of exchange, and other negotiable instruments necessary for the carrying on of the business of the society;

(c) keep a just and true record of all business transactions of the society, have custody of the cash, securities, books of accounts, registers and other papers of the society:

Provided that the adequacy of the books and accounts kept by the Treasurer shall be subject to the approval of the Registrar;

(d) prepare, or cause to be prepared, for the annual general meeting, the directors and the Registrar, within four months of the end of the preceding financial year, a statement in a form approved by the Registrar, of the receipts and expenditure, the results of operations, and assets and liabilities of the society for such year, and prepare or cause to be prepared an interim financial statement for any semi-annual or other general or special meeting if requested to do so by the directors;

(e) send promptly to the Registrar the annual financial statement referred to in paragraph (d) and send, or arrange to send, to the Registrar the auditor's report, if any, and such other returns as the Registrar may require from time to time;

(f) if requested to do so by the directors, prepare a statement of the estimated income and expenses of the society for the ensuing year for consideration of the board of directors at their first meeting following

the annual general meeting of the society.

55. The office of Secretary and Treasurer may be held by one and the same person, in which case the duties shall be as prescribed in rules 53 and 54. Duties of Secretary-treasurer

56. If the directors appoint a general manager to manage the business and property of the society, the duties of Secretary or Treasurer, or Secretary-treasurer, may be modified or altered in accordance with the allotment of such duties as may be assigned by the directors to the manager and other officers. In such cases definite instructions in writing shall be given to each officer so that the duties prescribed in rules 53 and 54 will be carried out. Duties of manager

No Conflict of Interest

57. If an officer or employee of a society undertakes in his own behalf any business or trade for profit, and such business or trade is in competition with or duplicates services available from the society to its members, or to persons who may be expected to become members, and continues to do so while holding office or being an employee, such person, if holding an elective office, shall vacate such office immediately or be liable to removal by the directors or by the Registrar or, if appointed as an employee by or with the approval of the directors, shall be liable to immediate removal by the directors or by the Registrar. Action to be taken

PART III

SPECIAL RULES FOR CREDIT UNIONS

Objects and Services

58. (1) No co-operative savings and credit society, in these Rules referred to as a credit union, shall engage in any business except in accordance with objects prescribed in section *fifty-three* of the Act, and may exercise the powers necessary to achieve such objects, or powers General services and membership

that are ancillary or incidental thereto, subject to the by-laws.

(2) The by-laws shall specify the common bond of occupation, association or residence to which membership of the credit union shall be limited.

59. (1) A credit union may, by by-laws and with the approval of the Registrar, provide for admission to membership of another credit union, other society, or one or more organisations mentioned in section *fifty-six* of the Act: Services to member organisations

Provided that-

(i) the by-laws shall specify the terms and conditions upon which such member credit union, society or organisation may obtain loans or other services;

(ii) the total amount of loans made to such member credit union, other society or other organisation shall not at any time exceed an amount equivalent to one-quarter of the paid-up capital and deposits of the credit union.

(2) A credit union shall require the directors or other elected officers of a registered organisation, which is a member in accordance with section *fifty-six* of the Act, to file with the credit union a resolution in Form 6 authorising the officers of the organisation named therein to transact business with the credit union.

(3) A credit union shall require the duly authorised officers of an organisation that is not registered, but is a member in accordance with section *fifty-six* of the Act, to furnish a resolution in Form 7 naming the officers who have authority to make withdrawals and to sign on behalf of such organisation.

(4) Except upon a resolution given to its signing officers, a certified copy of which shall be filed with the credit union, no loan shall be given to a member organisation which is not registered:

Provided, however, that in the making of a loan to such organisation which is a member, a credit union shall in any particular case require such additional security by way of an endorsement of a negotiable

instrument in the form of a promissory note to repay the loan as may be deemed advisable.

60. Deposits may be accepted from other than individual members of the credit union in accordance with paragraph (a) of section *fifty-seven* of the Act under the following conditions: Special deposit services

- (a) the credit union adopts a by-law providing for the conditions under which such deposits may be accepted;
- (b) the Registrar is satisfied that the credit union-
 - (i) has a permanent place of business;
 - (ii) is adequately provided with safe-keeping facilities for books, records, money and securities;
 - (iii) has a full-time Treasurer and staff to carry on regular services to its individual members;
 - (iv) has adequate bonding and insurance coverage;
 - (v) has an adequate book-keeping system that is kept up to date;
 - (vi) has paid-up share capital and deposits credited to its individual members of at least K200,000, or such lesser or greater amount as the Registrar may prescribe;
 - (vii) has been authorised to use orders negotiable by endorsement (cheques) with clearing arrangements with commercial banks; and
 - (viii) has appointed an auditor.

61. A credit union may make loans for the purchase of farm land or a small farm holding, or occupancy title thereto for the personal use of the borrower, and for the purchase or erection of buildings necessary for the conduct of farming operations on such land holding, or for the purchase or erection of a dwelling-house or other buildings for the personal use of the borrower and the land on which such dwelling-house or other buildings are situated or erected, subject to the following conditions: Loans for farm land and the erection of dwellings

- (a) that the combined amount of paid-up capital and deposits of the credit union is at least K10,000, or such lesser or greater amount as the

Registrar may prescribe; and

(b) that a loan made for the purpose of this rule and the total of any other loans made to the borrower shall not at any time exceed an amount in excess of eight per centum of the paid-up capital and deposits of the credit union, or in excess of such lesser percentage as may be provided in the by-laws.

62. (1) If the by-laws so provide, loans may be made by a credit union for the purchase of land or the purchase or erection of buildings used in the operation of a business, or for financing the operation of a business of which the borrower is the sole owner or proprietor, subject to the following conditions: Loans for business purposes

(a) that the combined amount of paid-up capital and deposits of the credit union is not less than K25,000;

(b) that a loan made for the purpose of this sub-rule and the total of any other loan made to the borrower shall not at any time exceed an amount in excess of eight per centum of the paid-up capital and deposits of the credit union, or in excess of such lesser percentage as may be provided in the by-laws;

(c) that the total assets of the borrower as shown by a statement of his affairs before the loan is made do not exceed K10,000.

(2) If the by-laws so provide, loans may be made for the purchase of land or the purchase or erection of buildings used in the operation of a society, or for financing the operation of the business of a co-operative society, subject to the following conditions:

(a) that the combined amount of paid-up capital and deposits of the credit union is not less than K25,000;

(b) that a loan made for the purposes of this sub-rule and the total of any other loan made to the borrower as a society shall not at any time exceed an amount in excess of eight per centum of the paid-up capital and deposits of the credit union, or in excess of such lesser percentage as may be provided in the by-laws;

(c) that the total assets of the borrower as a society, as shown by the financial statement filed with the Registrar for the preceding financial

year, do not exceed K10,000.

(3) Loans made for financing the operation of a business in accordance with sub-rules (1) and (2) shall be made only for the following purposes:

(a) for the purchase of agricultural or other commodities for marketing, or for the purchase of agricultural requisites or other merchandise for sale at retail;

(b) for improvements to buildings or equipment used in the business;

(c) for the payment of wages and salaries; and

(d) for the consolidation of debts incurred by the borrower in the operation of the business.

63. (1) The total amount of loans made by a credit union in accordance with rules 61 and 62 and section *sixty-seven* of the Act shall not at any time exceed an amount equivalent to one-quarter of the paid-up capital and deposits of the credit union.

Total amount of loans for land, buildings and business purposes

(2) All applications for loans made under rules 61 and 62 and in accordance with section *sixty-seven* of the Act require the approval by a majority vote of the following persons meeting together:

(a) a majority of the members of the credit committee;

(b) two or more directors; and

(c) one member of the supervisory committee:

Provided, however, that where the by-laws of the credit union specify that the members of the credit committee shall be appointed by the board of directors, there shall be deemed to be a compliance with this rule where at least two of the members of the credit committee present at the meeting are also directors.

64. Where an officer of a credit union applies for a loan in excess of the value of his shares and deposits assigned as security to the credit union, and the market value of any stock, bond or security of the Government of Zambia held by him and so assigned, his application shall require approval by majority vote, taken in the absence of the applicant, of the following persons meeting together:

Loans to
officers

- (a) a majority of the members of the credit committee;
- (b) two or more directors; and
- (c) one member of the supervisory committee:

Provided, however, that where the by-laws specify that the members of the credit committee shall be appointed by the board of directors, there shall be deemed to be a compliance with this rule where at least two of the members of the credit committee present at the meeting are also directors.

65. Where the by-laws provide for loans to a credit union, other society or other organisation, in accordance with section *fifty-six* of the Act, and where the by-laws provide for loans for business purposes in accordance with rule 63 and section *sixty-seven* of the Act, and there are more loan applications pending than can be granted from the funds available, preference shall be given by the credit committee to applications from individual members, other than for business purposes, subject to the provisions of subsection (8) of section *sixty-four* of the Act.

Preference in
the granting of
loans

Temporary Suspension of Loaning Operations

66. Where the Registrar is of the opinion that the manner in which loans are being made by a credit union as disclosed by an examination or investigation under the Act, or the amount of loans being made threaten the financial stability of the credit union and the interests of its members, he may-

Suspension and
resumption of
loaning
operations

- (a) by written notice sent or delivered to the Chairman and Treasurer or Secretary-treasurer or manager, as the case may be, order the suspension of loaning operations or further loaning operations during such period as he may prescribe;
- (b) appoint an officer of the credit union or some other competent person as an administrator in accordance with section *one hundred and sixty-three* of the Act to collect loans in arrears and place other loans outstanding in a condition to ensure repayment, and have charge of other

operations of the credit union;

(c) permit the resumption of loaning operations after the financial position of the credit union has been restored to a satisfactory basis, under the direction of its own officers or subject to assistance from such special directors or other special officers as he may appoint.

Withdrawals of Shares and Deposits

67. (1) A member may withdraw funds standing to his credit in share capital account or in deposit account in the credit union, or placed to his credit by the credit union from the proceeds of a loan made to him, by cheque payable to the member and issued by the credit union on a commercial bank or other depository in which the funds of the credit union are placed, provided that the necessary withdrawal voucher has been signed by the member. Methods of withdrawal

(2) Withdrawals may be made in cash by signing a cash withdrawal and disbursement voucher at the office of the credit union, in a form designated by the directors and approved by the Registrar for use only at the office of the credit union, and containing the member's account number, his personal signature, and initialed by the

Treasurer or his assistant when the withdrawal is charged to the member's account; or a stamp bearing the name of the credit union and the date may be used in place of an initial.

(3) Withdrawals may be made by orders negotiable by endorsement (cheques) where the Registrar has authorised the use of such orders and the credit union has arrangements for clearing.

Cash Fund to Meet Withdrawals

68. (1) Where a cash fund, other than petty cash for designated purposes as in rule 102, is maintained for the purposes of rule 67 (2) and authorised by the board of directors with the approval of the Registrar, the following conditions shall apply: Cash fund

(a) withdrawal from the bank or other depository for the stated cash fund shall be made only as required so that the amount of cash in hand shall not exceed at any time the amount authorised by the directors and approved by the Registrar;

(b) the cash shall be kept in a suitable safe until required and shall be in the sole custody of the Treasurer, Secretary-treasurer or the manager, as the case may be:

Provided that the Registrar may require such information as he deems necessary regarding the adequacy of safe-keeping facilities;

(c) the credit union has in force burglary and hold-up insurance in an amount designated by the directors and approved by the Registrar.

(2) Where the use of orders negotiable by endorsement (cheques) has been authorised by the Registrar as in rule 67 (3) to be issued by members on their deposit account in the credit union, the following conditions shall apply, namely, that the credit union:

(a) has a permanent place of business adequately provided with safe-keeping facilities for books of account, records, money and securities, controlled by the directors;

(b) has a full-time Treasurer and other staff to carry on regular savings and credit services for its members;

(c) has adequate burglary and hold-up insurance and bonding coverage;

(d) has an adequate book-keeping system that is kept up to date;

(e) has clearing arrangements with commercial banks;

(f) has combined paid-up capital and deposits in excess of K200,000;

(g) maintains a reserve to meet withdrawals consisting of cash in hand or in bank, or other depository in which funds of the credit union are placed, that is not less than twenty per centum of the combined share capital and deposits of the credit union at the end of the preceding calendar month; and

(h) has appointed an auditor.

69. (1) No officer or employee of a credit union shall permit any withdrawal of funds from share capital or deposit account, or from the proceeds of a loan properly approved in accordance with the Act and placed to the credit of the borrower by the credit union, when the funds in such accounts are not sufficient to cover the withdrawal.

No overdrafts
allowed

(2) Nothing in this rule curtails, abridges or defeats any remedy for the recovery from a member of any amount withdrawn in excess of the amount standing to his credit in his share capital or deposit account, or loan account.

Use of Passbook

70. (1) All payments to or withdrawals from share capital account or from deposit account, if any, shall be shown by the necessary entries in a passbook or statement provided to the member.

Entries in
passbook or
other statement

(2) The proceeds of any loan and repayments thereon, together with interest payments, shall be shown by the necessary entries in the passbook or statement provided to the member as in sub-rule (1).

(3) All entries in a passbook or statement under this rule shall be initialed by the Treasurer or his authorised assistant, except where machine posting is used.

(4) A member using the stop order deduction plan for payments to or withdrawals from a credit union, pursuant to the Act, shall present his passbook to the Treasurer or his authorised assistant at least quarterly.

(5) If a passbook is lost or destroyed, immediate notice of the loss or destruction shall be given by the member to the Treasurer who may issue a new passbook:

Provided that where a new passbook is so issued, the member's account in the credit union may be given a new number.

Investment in Land and Buildings

71. (1) A credit union may for its purposes, with the approval of the Registrar, hold, purchase or take on lease in its own name, and sell, exchange, mortgage or lease any land or buildings. Purpose and value

(2) The value of land and buildings so acquired shall not exceed K5,000 or an amount equivalent to three per centum of its combined paid-up capital and deposits, whichever amount is the lesser, except by resolution of a general meeting and with the approval of the Registrar.

(3) Sub-rule (2) does not apply to land and buildings acquired by the credit union as security for or in settlement of a loan, and any property so acquired may be sold, exchanged, mortgaged or leased.

Special Duties of Directors of Credit Unions

72. In addition to the duties designated in section *one hundred and thirteen* of the Act and in rule 48 in so far as applicable, the directors of a credit union shall have the following special duties: Special duties

(a) to appoint the credit committee unless the by-laws provide that members of the credit committee shall be elected by the members at the annual general meeting;

(b) to appoint one member of the supervisory committee unless the by-laws provide that all members of the supervisory committee shall be elected by the members at the annual general meeting;

(c) to determine from time to time the maximum individual shareholdings of a member, the maximum individual loan, and the total amount of all loans that may be made by the credit committee, having regard to the resources of the credit union from time to time and the provisions of the by-laws;

(d) to determine the rate of interest that may be charged by the credit union on loans or on various kinds or classes of loans, subject to section *seventy-two* of the Act, and to determine the rate of interest on deposits, if any;

(e) to have charge of investments of the credit union other than loans to members;

(f) to require the Treasurer, or Secretary-treasurer or manager to prepare and submit monthly or quarterly or other financial statements showing the financial position of the credit union, including the number of loans made during the period, repayments on loans made, what loans are in arrears, if any, and to authorise such action as may be deemed

necessary to collect such loans in arrears or otherwise place them in good standing;

(g) to require the supervisory committee to prepare and submit within the prescribed time reports of its examination, in a form approved by the Registrar, in order to enable the directors to study such reports and, as a result of such study, to give such directions as may be necessary regarding the operations of the credit union;

(h) to study in consultation with the credit and supervisory committees the report of any examination conducted by or under the direction of the Registrar, and to inform the Registrar regarding action taken to carry out the recommendations, if any, in such report;

(i) when an officer who is responsible to the directors for the management or custody of the funds of the credit union ceases for any reason to be so responsible, the directors shall immediately and before his successor is appointed, prepare or cause to be prepared a statement showing the cash on hand and in bank, and have such statement reconciled with the books and accounts of the credit union;

(j) to prepare and present to the annual general meeting a recommendation respecting the distribution of the net surplus including dividends on shares; and

(k) to present to the annual general meeting a report of the work done by the directors during the preceding financial year and recommendations to the members for the ensuing year.

Credit Committee and Loans

73. Immediately after their election by the members of the credit union or by the directors, as the case may be, the credit committee shall meet and elect a Chairman and appoint a Secretary. Organisation

74. A majority of the credit committee shall constitute a quorum and an application for a loan shall require a majority approval of those present: Quorum

Provided that if only two members of the committee are present, unanimous approval shall be required.

75. Except as provided in sections *sixty-eight* and *sixty-nine* of the Act and in rule 80, the credit committee shall have supervision of all loans to members and, subject to any general order of the board of directors, Special duties

shall fix the amount and the rate of interest of each loan.

76. No loan shall be made to a member who is not in good standing or has failed to make a satisfactory settlement for any previous loan. Undesirable loans

77. (1) No loan shall be made unless an application therefor has been completed on a form provided by the credit committee, and the proceeds of the loan shall not be made available to the applicant until he has signed a negotiable instrument as a promissory note to repay the loan in a form approved by the Registrar and satisfactory to the committee, and has provided such security for the loan as the committee may require. Loan applications and promotion of thrift

(2) To promote thrift and a stronger basis for personal credit, the credit committee may, except in case of an emergency or hardship, require that a new member shall save regularly in the form of payments on shares in the credit union for a period of six months from the time of his acceptance into membership, or for such longer period as the committee may fix, before making a loan to such member in excess of the amount of his shareholdings in the credit union.

(3) To promote thrift and to strengthen the credit union as a source of credit for its members, the credit committee may, as a condition of a loan being granted, require an applicant to subscribe for and make payments on such minimum number of additional shares as may be agreed upon.

78. A guarantor who endorses a negotiable instrument as a promissory note to repay the loan need not be a member of the credit union. Guarantor

79. The shares held by a member, and money on deposit, if any, in the credit union may be assigned as security for a loan, together with such other security as the credit committee may require. Such shares and deposits shall constitute the first claim by the credit union as security for a loan in case of default, but without prejudice to a claim to any additional security that may have been required by the credit committee when the loan in default was granted. Shares as security

80. (1) A majority of the credit committee and the board of directors meeting together may, by unanimous resolution, with the approval of Loans in special cases

the Registrar, authorise the treasurer to make loans without submitting the application to the credit committee under the following conditions:

(a) in an amount not exceeding K20 in each case, for a period of not more than thirty-one days, where the applicant is in good standing as a member and signs a promissory note to repay the loan;

(b) in an amount not exceeding K200 in each case if an equivalent amount of paid-up shares and deposits in the credit union is held by the applicant and assigned as security to the credit union, or the market value of any stocks, bonds or securities of the Government of Zambia in an equivalent amount are held and so assigned, or both.

(2) All loans made by the treasurer in accordance with sub-rule (1) shall be reported by him at least monthly to the credit committee and to the board of directors.

(3) The resolution referred to in sub-rule (1) may be rescinded at any time upon an order by the board of directors or the Registrar.

81. The credit committee shall meet monthly or at such other times as Meetings
may be required by the business of the credit union.

82. A full and correct record shall be maintained of all proceedings Records
with respect to loan applications considered by the committee, and the recommendations made to the Treasurer or Secretary-treasurer or manager with respect to the rate of interest, the terms of repayment, and the security prescribed for each loan approved by the committee. All applications for loans approved and negotiable instruments therefor shall be filed by the committee as permanent records of the credit union.

83. In addition to the authority of the Registrar, or any person Inspection of
authorised by him to have access to and to inspect all the books, records
accounts, papers, securities and cash in hand of the credit union in accordance with section *one hundred and forty-two* of the Act, records of the credit committee shall be open for inspection by the board of directors under conditions specified by board resolution, and shall be available for inspection by the supervisory committee in accordance with the special duties of such committee under rule 90.

- | | |
|---|---|
| <p>84. The credit committee shall report to the directors at least monthly or at such other times as may be required by the business of the credit union, and such report shall include the number of loans made during the period under review, the amount loaned, renewals of loans granted, if any, loans in arrears, if any, the rate of interest where the rate varies between different kinds or classes of loans, and the purposes for which loans were made.</p> | <p>Report to directors</p> |
| <p>85. The report of the work of the credit committee during the preceding financial year shall be presented to the annual general meeting by the chairman of the credit committee without disclosing the name of any borrower.</p> | <p>Report to annual general meeting</p> |

Supervisory Committee and Auditor

- | | |
|--|--|
| <p>86. Immediately after their election, or appointment where one member is appointed by the board of directors, the supervisory committee shall meet and appoint a chairman and a secretary.</p> | <p>Organisation</p> |
| <p>87. No director, member of the credit committee, or employee of the credit union shall be elected or appointed to the supervisory committee.</p> | <p>Persons ineligible for appointment</p> |
| <p>88. The supervisory committee shall meet at least monthly or at such other times as may be required for examination of the affairs of the credit union.</p> | <p>Meetings</p> |
| <p>89. (1) If the position of a member of the supervisory committee who has been elected by the members of the credit union becomes vacant, such vacancy shall be filled by the remaining members of the committee until the next annual general meeting.</p> | <p>Vacancies</p> |
| <p>(2) If the position of the member of the supervisory committee who has been appointed by the directors, subject to the by-laws, becomes vacant, the directors may fill the vacancy for the unexpired term.</p> | |
| <p>90. The supervisory committee shall examine and supervise the affairs of the credit union as prescribed in section <i>seventy-four</i> of the Act, and without limiting the generality of such duties, shall-</p> | <p>Special duties of supervisory committee</p> |

- (a) make a surprise cash count and bank verification, together with reconciliation with books and records, at least quarterly;
- (b) check at least quarterly applications for loans during the period under review to determine whether for each loan made there is a completed application in the prescribed form on file, whether the security given for each loan is in accordance with the recommendations of the credit committee, whether a negotiable instrument in the form of a promissory note for the repayment of the loan has been signed by the borrower, and whether the terms of repayment or renewals, if any, have been complied with;
- (c) determine whether the provisions of the Act and these Rules have been complied with in making loans, including loans to member organisations, if any, maximum loans to individual members, loans for the purchase of land or for the purchase or erection of buildings for business purposes, and loans to officers;
- (d) check any overdrawing from share capital account, from deposit account or loan account, if any, in accordance with rule 69;
- (e) unless this duty is performed at least annually by an auditor appointed by the credit union, verify periodically at random, and not less than once in every year, at least ten per centum of the accounts of members with the credit union, including the amount of share capital and the amount of deposits, if any, and the amount owing on a loan, if any, as shown by the books and the records of the credit union:

Provided that the verification form shall be sent to each member whose account is verified;
- (f) check periodically the minutes of the board of directors and the credit committee and see to it that the policies and practices prescribed therein are being followed;
- (g) ensure that at least one member of the supervisory committee signs the monthly, quarterly or annual financial statement prepared by the Treasurer;
- (h) prepare and sign a quarterly report with respect to the examination of the affairs of the credit union by the supervisory committee, in a form prescribed by the Registrar.

91. If a verification form issued by the supervisory committee shows any deficiency in the account of a member, such form, with the necessary notation thereon or explanation by the member, shall be returned by him to the chairman of the supervisory committee, who shall immediately report the circumstances to the Registrar.

Verification of
members'
accounts

92. The annual report on the examination of the affairs of the credit union by the supervisory committee during the preceding financial year shall be presented to the annual general meeting by the chairman of the supervisory committee without disclosing the transactions of any member.

Report to annual general meeting

93. The report of any inspection or audit by or under the direction of the Registrar, and the report of the auditor if an auditor has been appointed in accordance with section *seventy-five* of the Act and rule 96, shall be presented to the annual general meeting by the chairman of the supervisory committee.

Presentation of inspection or auditor's report

Uncollectable Loans

94. (1) Where the whole or any part of a loan has remained unpaid for a period of four years from the date fixed for the repayment of the loan in full, and no payment on account of principal has been made to the credit union after that date, the amount remaining unpaid shall be charged to and paid from the reserve fund.

Uncollectable loans and charge-offs

(2) No loans shall be charged to the reserve fund without the joint approval of the directors, the credit committee and the supervisory committee, and with the consent of the Registrar.

(3) The amount to be charged off under sub-rule (1) shall be determined after deducting the shares and deposits, if any, standing to the credit of the member in default, on the books of the credit union, and less the market value of any security held by the credit union as security for the loan.

(4) The directors may in their discretion determine that a loan to be charged to and paid from the reserve fund under sub-rule (3) shall be paid from the reserve fund in annual instalments over a period of five years.

(5) Where no payment of interest and principal has been made to a credit union on a loan made by it within a period of two years after the date on which the interest or principal became due, no further interest on the loan shall be credited to the revenue of the credit union as an account receivable.

(6) Any moneys subsequently recovered with respect to a loan charged off under this rule shall be paid into the reserve fund.

95. Where the total of the amounts to be charged off to the reserve fund under rule 94 exceeds the amount of money in such reserve fund, no further payments to members shall be made under subsection (2) of section *seventy-nine* of the Act except to the reserve fund until the moneys in that fund are sufficient to pay all amounts to be charged thereto.

Limitation of payments

Appointment of Auditor

96. (1) Where the combined share capital and deposits of a credit union exceed K200,000 as shown by its latest financial statement, or such other amount as the Minister may prescribe by statutory order from time to time, the Registrar may require the credit union to appoint an auditor, in which case the supervisory committee shall request the board of directors to appoint as auditor a person publicly carrying on the profession of accountant in Zambia to conduct the annual audit of the books and accounts.

Appointment

(2) The appointment of the auditor shall be subject to the approval of the Registrar.

(3) A federation with objects in accordance with section *ninety-one* of the Act which include the provision of auditing services for its members may appoint a person publicly carrying on the profession of an accountant as auditor for the credit union upon the recommendation of the supervisory committee and at the request and with the approval of the Registrar.

Inspection of Credit Unions

97. (1) An annual inspection and audit of the affairs of a credit union as required by the Act shall include an examination and evaluation of each loan as shown by the books to determine the prospects for repayment, whether the security appears to be adequate and in order, and what further action, if any, will be necessary to ensure ultimate repayment.

Evaluation of loans

(2) The inspection and audit report shall include a classification of each loan as follows:

(a) repayment in accordance with the terms of the loan seems assured;

(b) repayment will be delayed and new terms may have to be arranged;

(c) repayment is doubtful unless additional security is provided by the borrower;

(d) prospects of repayment are poor in that a loss is probable unless adequate and immediate remedial action can be taken.

(3) When a public accountant has been appointed as an auditor of a credit union in accordance with sections *seventy-five* and *one hundred and forty-one* of the Act, he shall disclose to the Registrar after his annual audit the condition of those loans that require special action to ensure repayment.

98. (1) Immediately after his inspection and audit of a credit union, the representative of the Registrar or other duly authorised person who conducted such inspection and audit shall meet with the board of directors to discuss with them the condition of the credit union as he found it, and the need for any immediate action to be taken by the directors and other officers to improve loaning and other operations and to protect the interests of members.

Discussion of inspection report with officers

(2) A report of any discussion under sub-rule (1) shall be included in the inspection and audit report to be sent to the Registrar for such further action as he deems necessary.

99. (1) At the end of every financial year every credit union shall prepare a list of all overdue loans or loans in arrears, showing with respect to each loan-

List of loans in arrears

(a) the total amount of principal outstanding;

- (b) the terms of repayment and interest agreed upon with the borrower;
- (c) the amount and number of instalments in arrears;
- (d) the date on which the last payment was made on principal;
- (e) the amount of shares and deposits assigned to the credit union by the member in arrears;
- (f) a description of the security held, if any;
- (g) the estimated value of the security for the loan in arrears;
- (h) the net amount of the loan in arrears after deducting the amount of shares and deposits assigned and the value of other security given for the loan in arrears.

(2) The list referred to under sub-rule (1) shall be prepared within thirty days after the end of the financial year of the credit union to which the list relates, shall be signed as correct by the Treasurer or Secretary-treasurer or the manager, as the case may be, and shall be approved by the Chairman, and a copy sent to the Registrar immediately.

(3) For the purposes of this rule, "loan in arrears" means any loan on which the member is in default for more than ninety days on a payment or payments of principal or interest according to any loan agreement he has made with the credit union.

PART IV

MISCELLANEOUS

Use and Maintenance of a Reserve Fund

100. Subject to rule 94, in the case of a credit union, the reserve fund or funds as prescribed by the Act and the by-laws of a society shall be used to protect the financial position of the society under the following conditions:

Use of reserve fund

(a) the net losses resulting from the business operations of a society in any year, as well as uncollectable loans or other overdue debts owing to the society, may be charged to the reserve fund in whole or by instalments;

(b) in the event that the reserve fund of a society is depleted or reduced as a result of operating losses or uncollectable loans or other accounts being charged against it, the amounts to be placed in the reserve fund each year from the surplus arising from the business of the society as provided in the by-laws shall be increased by an additional ten per centum, if the Registrar so directs, or the Registrar may direct that the entire surplus arising from the business of the society in each year shall be placed in the reserve fund until the amount in that fund has reached the amount that it stood at prior to the losses charged against it;

(c) no member shall have any claim against the reserve fund or funds of a society prescribed by the Act and provided for in the by-laws except in the case of closure of liquidation in accordance with section *one hundred and fifty-three* of the Act.

101 Subject to the approval of the Registrar, moneys placed in a reserve fund may, until required for the purposes of a society, be deposited in commercial banks in Zambia, the Post Office Savings Bank, registered building societies, loan companies and trust companies authorised to receive money on deposit, a federation registered with objects in accordance with section *ninety-one* of the Act and authorised to receive money on deposit, or invested in any stocks, bonds or securities of the Government of Zambia.

Investment of moneys in reserve fund

Use of Petty Cash Fund

102. (1) Subject to rule 68, in the case of a credit union, payments by a society shall be made by cheque issued on a commercial bank or other depository in which the funds of the society are placed, except for payments out of a petty cash fund for designated purposes respecting the business of the society.

Restricted use of petty cash fund

(2) The amount of the petty cash fund and the purposes for which it shall be used shall be only by authorisation by a resolution of the board

of directors and subject to the approval of the Registrar.

(3) Withdrawals from the bank or other depository for the petty cash fund shall be made only as required, so that the amount in such fund shall not exceed at any time the amount authorised by the directors and the Registrar.

(4) The petty cash fund shall be in the sole custody of the Treasurer, the Secretary-treasurer or manager, or his authorised assistant.

Inspection and Technical Advice

103. (1) Immediately after his inspection and audit of a co-operative society, other than a credit union as in rule 98, the representative of the Registrar or other duly authorised person who conducted such inspection and audit shall meet with the board of directors to discuss with them the condition of the society as he found it, and the need for any immediate action to be taken by the directors and other officers to improve operations and to protect the interests of members, or the need for technical or other special advice to improve operations and to achieve the objects of the society.

Discussion of inspection report with officers of a society

(2) Discussion under sub-rule (1) shall include the condition of accounts payable by the society, the condition of accounts receivable by the society, including debts owing to the society by its members, and the need for immediate action if required in connection with such accounts.

(3) A report of any discussion under sub-rule (1) shall be included in the inspection and audit report to be sent to the Registrar for such further action as he may deem necessary.

104. (1) When the Registrar, subject to the approval of the Director of Co-operative Societies, arranges with the officers of a federation registered with objects in accordance with section *ninety-one* of the Act, to provide, where consistent with its objects, such technical or other information and advice regarding the operations of a society which is a member of such federation, as may be necessary to assist its officers and members in the achievement of its objects and purposes, and to provide to the society other services designed to facilitate the annual inspection and examination of its affairs, such a society shall provide the Registrar with such yearly and other returns and information as he may require for

Special services by co-operative federations

the purposes of the Act.

(2) The adequacy of any annual inspection or examination or other services provided to a society under sub-rule (1) shall be subject to the approval of the Director of Co-operative Societies and the Registrar.

105. (1) When the Director of Co-operative Societies, subject to instructions, if any, from the Minister, arranges with the proper officers of any department or agency of the Government that such department or agency undertake to provide such technical or other information and advice regarding the operations of a society as may be necessary to assist its officers and members in the achievement of its objects and purposes, and, where appropriate, to provide to the society other services designed to facilitate annual inspection and examination of its affairs, such a society shall provide the Registrar with such yearly and other returns and information as he may require for the purposes of the Act.

Special services by
Government agencies

(2) The adequacy of any inspection or examination or other services provided to a society under sub-rule (1) shall be subject to the approval of the Director of Co-operative Societies and the Registrar.

106. (1) When the Registrar is of the opinion that one or more persons, because of their knowledge, experience and position, will be able to advise and assist the officers of a society in the achievement of its objects and purposes, he may, subject to the approval of the Director of Co-operative Societies, appoint such person or persons as advisory or *ex officio* directors of the society for such period as he shall specify:

Special services
by advisory
officers and
members

Provided that such advisory or *ex officio* directors shall have all the rights and privileges of an elected director or a member except the right to vote.

(2) When the by-laws of a society provide for the admission of advisory or *ex officio* members to assist and advise the society in the achievement of its objects and purposes, such advisory or *ex officio* members shall, subject to the by-laws, have all the rights and privileges of members except the right to vote.

Appointment of Auditor

107. (1) When the total assets of a society, except in the case of a credit union in accordance with rule 96, exceed K200,000 as shown by its latest financial statement, or such other amount as the Minister may prescribe by statutory order from time to time, the Registrar may require that the annual audit of the books and the accounts of such society shall be conducted by a person publicly carrying on the profession of accountant in Zambia.

When
appointment
required

(2) The auditor referred to in sub-rule (1) may be appointed by the Registrar or by the board of directors of the society with the approval of the Registrar.

(3) When a federation is registered in accordance with section *ninety-one* of the Act, and with objects that include the provision of auditing services to its member societies, a society that requires the services of an auditor in accordance with sub-rule (1) may be required to become a member of such federation and the federation shall then be requested by the Registrar to appoint the auditor for the society.

108. (1) Any society or kinds or classes of societies designated by the Registrar from time to time may be required by him to make annually a contribution to a fund for audit and inspection purposes.

Audit fees
payable to
Registrar under
certain
conditions

(2) The contribution mentioned in sub-rule (1) shall not be required from a society, including a credit union, which is required to use the services of an auditor in accordance with rule 96 or 107.

(3) Until such time as a federation mentioned in rule 107 (3) is able to provide auditing services and the audit fund or part thereof is credited to such federation, the fund shall be administered by the Registrar on behalf of contributing societies.

(4) So long as the Registrar administers the audit fund on behalf of contributing societies, he shall report annually to the Director of Co-operative Societies and to the Minister respecting the annual income received as contributions, if any, to finance the audit of existing societies, and the total amount in the fund from time to time.

(5) As soon as the fund has been credited to the federation mentioned in sub-rule (3), the moneys in the said fund shall be used by such federation to provide auditing services to societies in accordance with its objects.

(6) The appointment of the auditor or auditors by the federation under rule 107 and under this rule, and the adequacy of the services provided to societies thereby, shall be subject to the approval of the Registrar.

Charges by Societies

109. (1) The form of register to be kept by the Registrar in accordance with subsection (4) of section *one hundred and twenty-nine* of the Act for the registration of charges shall be as in Form 8.

Form of
register and
forms for
registration and
discharge

(2) The form of certificate to be issued by the Registrar in accordance with subsection (5) of section *one hundred and twenty-nine* of the Act shall be as in Form 9.

(3) The form of notification of a mortgage or charge to be sent to the Registrar by a society in accordance with subsection (6) of section *one hundred and twenty-nine* of the Act shall be as in Form 10.

(4) The form of notification of a series of debentures created by a society to be sent to the Registrar under subsection (6) of section *one hundred and twenty-nine* of the Act shall be as in Form 11.

(5) The form of certificate of entry of a memorandum of satisfaction to be provided by the Registrar on request in accordance with section *one hundred and thirty-two* of the Act shall be as in Form 12.

FIRST SCHEDULE

PRESCRIBED FORMS

FORM 1

(Section 10 (2))

(Rule 3 (1))

THE CO-OPERATIVE SOCIETIES ACT

APPLICATION FOR REGISTRATION OF A CO-OPERATIVE SOCIETY

1. We, the undersigned,

(insert name, address and occupation of at least ten persons, or of at least two officers of each society if application is made by registered co-operative societies) desire to form a co-operative society under the Co-operative Societies Act, and hereby apply for registration.

2. The name of the proposed society is (insert name proposed)

3. The registered office of the society is to be at (insert proposed address)

and its postal address will be

4. Enclosed are three copies of the proposed by-laws which specify the objects of the society.

5. These proposed by-laws were approved by persons willing to become members, at a general meeting held at on, 19

6. persons, including the undersigned, are now willing to become members and have made the payment necessary for admission to membership as prescribed in the enclosed by-laws.

7. The registration fee is enclosed.

8. We, the undersigned, have consented to direct the affairs of the proposed society as required by section 111 (3) of the Co-operative Societies Act, until our successors are elected at the first annual general meeting held after registration of the society.

Dated at the day of,
19

Certified correct

Acting Secretary

1. Application for registration approved

2. Approval deferred pending receipt of further information (rule 4)
3. Application refused with reasons therefor given to the Minister and to the applicants, and registration fee refunded (rules 7 and 8)

FORM 2

(Sections 10 and 11)

(Rules 3 and 4)

THE CO-OPERATIVE SOCIETIES ACT

PRELIMINARY APPLICATION TO FORM A CO-OPERATIVE SOCIETY

In order that more information and advisory assistance may be given to those who desire to organise a co-operative society, and to determine whether organisation and registration appear economically or otherwise advisable, the following information is required where applicable:

1. Location of proposed society

Give location and approximate size of area in which proposed society will provide services to members (if other societies are to be members give their names and location)

2. Kind of co-operative society required

Describe briefly the main purpose for which the society is to be organised. (See Part V, VI, VII, VIII, IX, X, XI or XII of the Co-operative Societies Act for objects.)

3. Reasons

Give reasons for forming the society (it is important to describe in detail)

4. Source of membership support

Briefly describe the main occupation, or employment, or residential area, or the trade union or fraternal or other bond of association or occupation of the people expected to become members (*see* No. 1)

5. Attitude towards community projects

Do the people referred to in No. 4 work well together in voluntary projects to benefit the community or area in which they live, or the occupational, employment or associational group to which they belong?

6. Expected membership

(a) Number ready to join now

- (b) Estimated number of persons expected to join within the first year of operation

7. Leadership

Are there a few persons in the group desiring to organise who will give unselfishly of their time to get the society started and assist in its operation? (List a few of them)

8. Office bearers

Are the persons mentioned in No. 7 prepared to act as directors or on other committees and do they understand what their duties will be?

9. Management

If the society is registered will the services of a competent manager (or Treasurer or Secretary-treasurer) be available?

- (a) Name
(b) Experience and training
(c) Will he be able to keep or supervise the keeping of accurate books and records?

10. Financial participation by members

- (a) Will members provide share capital or other funds to get their society started and continue to give it financial support after operations commence?

(Members must gradually provide the basic capital required. Borrowings by a society for seasonal or other operations are possible only if members are prepared to finance the society they own and control.)

- (b) Value of each share Ktotal expected to be paid on shares subscribed when operations commence K
(c) Total paid-up membership fees expected when operations commence K
total entrance fees to be paid when operations commence K
(d) From what source of income will members provide the capital required? (e.g. from salaries, wages, business, seasonal sale of farm produce, etc.)

NOTE: If proposed society is a credit union at least thirty persons should be prepared to save regularly when operations commence, and number of potential savers should be at least one hundred.

11. Educational meetings

Have educational meetings been held to discuss the proposed society, its operations and its benefits to members if they support it?

- (a) If so, how many?
(b) Average number in attendance
(c) Speaker

12. *Discussion groups*

Have study and discussion groups been organised to involve and inform the people who wish to become members?

- (a) If so, how many?
- (b) How long have they been in operation?
- (c) Have model by-laws been discussed?
- (d) Discussion group leaders

13. *Office space*

If office space, a building or equipment are required for the purposes of the society, how will these be obtained and financed?

14. *Planning and technical advice*

Has advice been obtained on whether planning for the proposed society seems adequate and whether it has reasonable prospects for success if the members give it their support?

If so, give source of such advice

15. *Consultation with Co-operative Officer*

Has an officer of the Department been consulted on the need for the proposed society and necessary preparation for organisation? (Give details)

Signature

Postal address

INSTRUCTIONS

This preliminary application form and questionnaire should be completed on behalf of a group interested in the formation of a society and forwarded to the Registrar of Co-operative Societies. The Registrar may require additional information or recommend further preparation for organisation to ensure that the proposed society will be of lasting benefit to its members.

Register Number

FORM 3

(Section 12 (1))

(Rule 6)

THE CO-OPERATIVE SOCIETIES ACT

CERTIFICATE OF REGISTRATION

I CERTIFY THAT I have this day registered the
 Limited as a co-operative society under the
Co-operative Societies Act.

The registered address of the society is

and its postal address is

Date

*Registrar of Co-operative
Societies*

FORM 4
(Sections 56 and 94)
(Rules 10, 12 and 48 (a))
APPLICATION FOR MEMBERSHIP

, 19
TO THE BOARD OF DIRECTORS (COMMITTEE),
LIMITED

I hereby apply for membership in the
Limited. On becoming a member I agree to conform to the by-laws and amendments
thereto, of the society
(or credit union), use its services faithfully, and be loyal to the society and to its members.
The sum of

K.....is paid with this application, including (strike out where not applicable):

- (a) entrance fee of
- (b) membership fee of
- (c) I subscribe for shares with payment thereon
of

Application endorsed by (Director or member in good standing or other person known to
the directors).

Signature of Applicant

Application approved by the board of directors (Committee) this
day of, 19

Secretary

FORM 4-SPECIAL

(Section 57 (a) re joint accounts and section 94)

(Rule 10)

APPLICATION FOR JOINT MEMBERSHIP AGREEMENT

The undersigned apply for a joint membership in the

Limited (hereinafter referred to as "the society"), and upon approval of the applicants (who may be man and wife or other persons) in joint membership by the society, do hereby agree each with the other and with the society, that all sums now invested in shares and moneys placed on deposit in the society or hereinafter paid in on shares and/or deposits, and all dividends and interest therefrom, shall be owned by us jointly with the right of survivorship, and shall be subject to withdrawal by either of us or the survivor of us, and the said payments upon withdrawal shall be valid and release and discharge the society from any payments so made.

In case of death of any one or more of the said joint members all rights and privileges of membership in all shares and deposits held jointly in the society shall be vested in the survivor or survivors.

Date
.....

Witness

Joint members

INSTRUCTIONS

This form is to be used to establish the rights of joint members and survivors. It can be adapted to the needs of members of a society other than a credit union.

FORM 5
(Sections 61 and 114)
(Rule 50)
DECLARATION OF OFFICE FORM

Joint declaration of directors, committee men and all other officers and employees
of the

Limited
Located at
Postal address Zambia
TO WIT:

I, the undersigned officer or employee of the above-named society, do solemnly declare
that, in so far as the duty is assigned to me because of my office or employment-

(a) I will honestly and faithfully administer the affairs of the society in an efficient
and business-like manner;

(b) I will not knowingly violate or willingly permit to be violated any of the
provisions of the Co-operative Societies Act, the Co-operative Societies Rules or the
by-laws of the above-named society;

(c) as an elected officer (or employee where applicable) I am the owner in good
standing and in my own right of at least one share or paid-up membership in the society.

I further declare that-

(d) I will properly and honestly carry out the duties assigned to me and, consistent
with my duties as an officer or employee, hold in strict confidence all transactions of the
members of the society;

(e) I will study the Co-operative Societies Act, the Co-operative Societies Rules and
the by-laws under which the above-named society operates.

Signature

Address

.....
.....
.....

And I make this declaration honestly believing it to be true, and knowing it is of the same
force and effect as if made under oath.

Declared before me by each of the above-named persons at
this day of, 19

Signature
Commissioner for Oaths or
Notary
Public or District Secretary

INSTRUCTIONS

This declaration form is to be signed by all officers, directors, committee men and

employees upon their election or appointment to office.

Every society must keep this form for its records so that it will be available at the time of the annual inspection and audit.c

If any employee is not a member this should be noted as he signs the declaration in view of clause (c).

FORM 6

(Section 56)

(Rule 59 (2))

(For use of Registered Organisations)

RESOLUTION OF DIRECTORS (COMMITTEE) RESPECTING DEPOSIT ACCOUNT SIGNING OFFICERS

, 19

To the Treasurer of
Society, Limited.

The following resolution was passed at the meeting of the
(name of society or other organisation)

duly called and held on the day of, 19

RESOLVED that

(names of officers) are hereby authorised for and in the name of
(name of society or other organisation)

hereinafter called the "Organisation"-

(a) to draw, accept, sign, endorse, issue, execute and make all or any bills of exchange, promissory notes, cheques, orders for the payment of money and other negotiable or transferable instruments;

(b))to pay and receive all moneys and give release for the same;

(c) generally for and in the name of the Organisation to transact with the said society any business they may think fit.

Also that

(names of officers) or any one of them be and are hereby authorised on behalf of the Organisation-

(d) to negotiate with, deposit with or transfer to the said society (but for credit of the Organisation's account only), all or any bills of exchange, promissory notes, cheques or orders for the payment of money and other negotiable or transferable paper, and for the said purpose to endorse the same or any of them on behalf of the Organisation, and also from time to time to arrange, settle, balance and certify all books and accounts between the Organisation and the society;

(e) to receive all paid cheques and vouchers, unpaid and unaccepted bills of exchange and other negotiable or transferable instruments, and to sign the society' form of settlement of balances and release:

Provided that this resolution be sent to the society and remain in force until written notice to the contrary shall have been given to the treasurer at the office of the society at which the account of the Organisation is kept, and receipt of such notice duly acknowledged in writing.

CERTIFIED A TRUE COPY
SEAL

Chairman

Secretary

INSTRUCTIONS

The foregoing resolution shall be completed by the proper officers of a municipality with a corporate status that is admitted to membership in and does business with a credit union.

FORM 7

(Section 56)

(Rule 59 (3))

(For use of unincorporated Organisations)

RESOLUTION RESPECTING DEPOSIT ACCOUNTS AND SIGNING OFFICERS

(For clubs, religious groups, labour, fraternal and similar organisations that are not registered)

RESOLVED:

(1) That

Society, Limited is hereby appointed depository of
(name of club, etc.) hereinafter called the
"Organisation".

(2) That

(names of officers) or any one of the officers or persons in clause (3) hereof are/is hereby authorised for and on behalf of the Organisation-

- (a) to negotiate with, deposit with or transfer to the society (but for the credit of the Organisation's account only) all or any cheques, promissory notes, bills of exchange, order for the payment of money and other paper negotiable or otherwise, purporting to be signed or endorsed on behalf of the Organisation by them or any one of them, or having the name of the Organisation impressed thereon by rubber stamp or otherwise; and
- (b) to arrange, settle, balance and certify all books and accounts between the Organisation and the society, and to receive from the society a statement of the account of the Organisation, together with all relative vouchers and all unpaid bills lodged for collection by the Organisation and all items returned unpaid and charged to the account of the Organisation, and to sign and deliver to the society the society's form of verification, settlement of balance and release:

Provided, however, that the said officers may in writing appoint from time to time any person or persons to receive from the society a statement of the account of the Organisation, together with all vouchers and all unpaid bills lodged for collection by the Organisation and all items returned unpaid and charged to the account of the Organisation, and to sign and deliver to the society, the society's form of verification, settlement of balance and release.

(3) That

(names of officers) are/is hereby authorised on behalf of the Organisation-

- (a) to make, sign and draw all or any cheques or orders for the payment of money against the account or accounts of the Organisation with the society, but without power to overdraw the said account or accounts; and
- (b) to obtain delivery from the society of all or any bonds, stocks and other securities held by the society in safe keeping or otherwise for the account of

the Organisation, and give valid and binding receipts therefor.

(4) That all agreements, documents and instruments, whether negotiable or not, purporting to be signed, made, drawn, accepted, executed or endorsed as hereinafter provided, shall be valid and binding upon the Organisation, and the society is hereby authorised to act thereon and give effect thereto.

(5) That this resolution be sent to the society and remain in force until written notice to the contrary shall have been given to the treasurer at the office of the society at which the account of the Organisation is kept, and receipt of such notice duly acknowledged in writing.

CERTIFICATE

We, the undersigned, hereby certify that the foregoing resolution was duly passed at a meeting of

(name of club, religious group, fraternal organisation, etc.) duly called and held on the day of, 19, the whole in accordance with the laws or regulations governing the said Organisation, and that the said resolution is in full force and effect.

Given under our hands and seal of the said Organisation this day of, 19

Chairman or President

Secretary

INSTRUCTIONS

The foregoing resolution shall be completed by the authorised officers of a club, religious, labour, farmer, fraternal or similar group that is not registered and does not have a corporate status, but is admitted to membership in and does business with a credit union.

(Rule 109 (1))

Particulars of all mortgages and charges created by Registration No

Registered number of charge	Date of creation	Amount secured K	Short particulars of the property mortgaged or charged	Names of mortgagees or persons entitled to the charge	Register
					Back

THE CO-OPERATIVE SOCIETIES RULES

FORM 9

(Section 129 (2))

(Rule 109 (2))

CERTIFICATE OF REGISTRATION OF A CHARGE IN ACCORDANCE WITH
OF THE CO-OPERATIVE SOCIETIES ACT

THIS IS TO CERTIFY that a Mortgage on

dated the day of, 19, and

created by

in favour of

for securing K and interest was this day registered pursuant to section
of the Co-operative Societies Act.

Given under my hand at Lusaka this day of,
19

Registered No. of Charge

Page Reference No

*Registrar of Co-operative
Societies*

THE CO-OPERATIVE SOCIETIES RULES

FORM 10

(Section 129 (6))

(Rule 109 (3))

PARTICULARS OF A MORTGAGE OR CHARGE CREATED

BY

Date of the instrument creating or evidencing the mortgage or charge and description thereof	Amount secured by the charge K	Short particulars of the property mortgaged or charged	Names with addresses description of the mortga person entitled to the cl

THE CO-OPERATIVE SOCIETIES RULES

FORM 11

(Section 129 (6))

(Rule 109 (4))

PARTICULARS OF A SERIES OF DEBENTURES CREATED

BY

Total amount secured by the whole series	Amount of the present issue of the series	Dates of resolutions authorising the issue of the series	Date of the covering deed (if any) by which the security is created or defined	General description of the property	

THE CO-OPERATIVE SOCIETIES RULES

FORM 12

(Section 132)

(Rule 109 (5))

CERTIFICATE OF ENTRY OF A MEMORANDUM OF DISCHARGE
OF A MORTGAGE

THIS IS TO CERTIFY that I have this day entered on the Register of Mortgages a
Memorandum that the Mortgage on

dated the day of, 19, and

created by

in favour of

for securing K and interest, has been satisfied in full.

Given under my hand at Lusaka this day of

19

Registered No. of Charge

Page Reference No.

Registrar of Co-operative Societies

SECOND SCHEDULE

(*Rule 3 and 8*)

PRESCRIBED FEES

						Fee units
1. Registration of society comprising an individual person	..	..	..	..	..
55						
2. Registration of a co-operative union	..	..	..	..	..	111
3. Registration of a federation	..	..	..	..	..	278
4. Registration of amendments to each by-law	..	..	..	..	..
11						
5. Inspection of by-laws in office of the Registrar-each inspection	..	..	..	..	..
28						
6. Registration of change of name of a registered society	..	..	..	..	..
28						
7. Registration of a charge..	..	..	..	..	..	111
8. Replacement of lost certificate of any registration..	..	..	..	..	..	30

(As amended by S.I. No. 4 of 1997)

SECTIONS 167 AND 172-EXEMPTIONS FROM THE PROVISIONS OF THE ACT

*Government
Notice
381 of 1953*

Orders by the Minister

Any society whose stated objects and business are primarily of a charitable, cultural or social nature which wishes to register a by-law providing that, in the event of dissolution and liquidation, the surplus funds of the society shall be distributed for charitable, cultural or social purposes through the Registrar, is hereby exempted from the provisions of subsection (3) of section *one hundred and fifty-three* of the Act in so far as that subsection refers to the distribution of surplus funds amongst members (or their personal representatives) at the time of dissolution, and shall remain so exempted so long as the registered by-laws of the society contain such by-law as is mentioned above.

The society known as the Farmers' Co-operative Society of Zambia Limited is hereby exempted, in respect only of that class of share defined in the by-laws of the said society as investment shares, from the provisions of section *one hundred and three* of the Act.

*Government
Notice
326 of 1954*

The society known as the Farmers' Co-operative Society of Zambia Limited is hereby exempted, in respect only of that class of share defined in the by-laws of the said society as investment shares, from the provisions of subsection (3) of section *one hundred and fifty-three* of the Act.

*Government
Notice
208 of 1956*

The society known as the Agricultural Society of Zambia is hereby exempted from the provisions of subsection (4) of section *twelve* of the Act.

*Government
Notice
250 of 1961*

CHAPTER 398 THE MONEY-LENDERS ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title

2. Interpretation
- 2A. Exemption
3. Licences to be taken out by money-lenders
4. Certificate required for grant of money-lender's licence
5. Suspension and forfeiture of money-lender's certificates
6. Names to be stated on documents issued by money-lenders
7. Restrictions on money-lending advertisements
8. Penalties for false statements and representations
9. Form of money-lender's contracts
10. Prohibition of compound interest and provision as to defaults
11. Obligation of money-lender to supply information as to state of loan and copies of documents relating thereto
12. Provisions as to bankruptcy proceedings for money-lender's loans
13. Appropriation of principal and interest
14. Reopening of transactions of money-lenders
15. Interest at a rate exceeding 48 per centum to be deemed harsh and unconscionable
16. Courts to which proceedings on money-lending transactions are to be taken
17. Prohibition of charge for expenses on loans by money-lenders
18. Limitation of time for proceedings in respect of money lent by money-lenders
19. Special provisions as to pawnbrokers' loans
20. Notice and information to be given on assignment of money-lenders' debts
21. Application of Act as respects assignees

SCHEDULE-Calculation of interest where the interest charged on a loan is not expressed in terms of a rate

An Act to make provision with respect to persons carrying on business as money-lenders; and to provide for matters incidental thereto.

[26th August, 1938]

1. This Act may be cited as the Money-lenders Act.

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"authorised name" and "authorised address" mean respectively the name under which and the address at which a money-lender is authorised by a certificate granted under this Act to carry on business as a money-lender;

"business name" means the name or style under which any business is carried on, whether in partnership or otherwise;

"company" means any body corporate being a money-lender;

"firm" means an unincorporate body of two or more individuals, or one or more individuals and one or more corporations, or two or more corporations, who have entered into partnership with one another with a view to carrying on business for profit;

"interest" does not include any sum lawfully charged in accordance with the provisions of this Act by a money-lender for or on account of costs, charges or expenses, but, save as aforesaid, includes any amount, by whatsoever name called, in excess of the principal, paid or payable to a money-lender in consideration of or otherwise in respect of a loan;

"money-lender" includes every person whose business is that of money-lending or who advertises or announces himself or holds himself out in any way as carrying on that business, but shall not include-

(a) any pawnbroker in respect of business carried on by him in accordance with the provisions of any law for the time being in force in relation to pawnbrokers; or

(b) any body corporate in so far as it is empowered to lend money by any Act or by any British Act; or

(c) any person *bona fide* carrying on the business of banking or insurance or *bona fide* carrying on any business not having for its primary object the lending of money, in the course of which and for the purposes whereof he lends money; or

(d) any building society registered under the Building Societies Act; Cap. 412
or

(e) any body corporate for the time being exempted under section two A;

"Permanent Secretary" means the Permanent Secretary, Ministry of Finance;

"principal" means in relation to a loan, the amount actually lent to the borrower.

(As amended by No. 15 of 1952, G.N. No. 279 of 1964,
S.I. No. 5 of 1965 and No. 36 of 1970)

2A. (1) The Minister may, by statutory order, exempt any body corporate from the provisions of this Act, and such exemption may be granted subject to such terms and conditions and in respect of such period as the Minister may specify in the order.

Exemption

(2) An order under this section may be revoked at any time.

(No. 36 of 1970)

3. (1) Except as hereinafter provided, every money-lender, whether carrying on business alone or as a partner of a firm, shall take out annually in respect of every address at which he carries on his business as such, a licence (in this Act referred to as "a money-lender's licence")

Licences to be
taken out by
money-lenders

which shall expire on the 31st December in every year, and there shall be charged on every money-lender's licence a fee of four hundred and fifty fee units or, if the licence be taken out not more than six months before the expiration thereof, three hundred fee units:

Provided that in respect of any address for which one partner in a firm of money-lenders has duly taken out a money-lender's licence, every other partner in such firm shall, subject to the provisions of section *four*, be issued with a money-lender's licence free of charge for such address.

(2) Subject to the provisions of this Act, money-lenders' licences shall be in such form as the Minister may direct, and shall be issued by the Permanent Secretary on payment of the licence fee, and regulations made by the Minister, by statutory instrument, may make provision as to the procedure to be followed in making application for money-lenders' licences:

Provided that a money-lender's licence shall be taken out by a money-lender in his true name, and shall be void if it be taken out in any other name, but every money-lender's licence shall also show the money-lender's authorised name and authorised address.

(3) If any person-

(a) takes out a money-lender's licence in any name other than his true name; or

(b) carries on business as a money-lender without having in force a proper money-lender's licence authorising him so to do, or, being licensed as a money-lender, carries on business as such in any name other than his authorised name, or at any other place than his authorised address or addresses; or

(c) enters into any agreement in the course of his business as a money-lender with respect to the advance or repayment of money, or takes any security for money, in the course of his business as a money-lender, otherwise than in his authorised name;

he shall be guilty of an offence and shall be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding three thousand penalty units in respect of each offence:

Provided that on a second or subsequent conviction of any person (other than a company) for an offence under this subsection, the court may, in lieu of or in addition to ordering the offender to pay the fine aforesaid, order him to be imprisoned for a term not exceeding three months, and an offender being a company shall, on a second or subsequent conviction, be liable to a fine not exceeding fifteen thousand penalty units.

(As amended by G.N. No. 279 of 1964 and Act No. 13 of 1994)

4. (1) A money-lender's licence shall be granted except to a person who holds a certificate granted in accordance with the provisions of this section authorising the grant of the licence to that person, and a separate certificate shall be required in respect of every separate licence. Any money-lender's licence granted in contravention of this section shall be void.

Certificate
required for
grant of
money-lender's
licence

(2) Certificates under this section (in this Act referred to as "certificates") shall be granted by the subordinate court of the first or second class having jurisdiction in the district in which the money-lender's business is to be carried on.

(3) Every certificate granted to a money-lender shall show his true name and the name under which, and the address at which, he is authorised by the certificate to carry on business as such, and a certificate shall not authorise a money-lender to carry on business at more than one address, or under more than one name, or under any name which includes the word "bank", or otherwise implies that he carries on banking business, and no certificate shall authorise a money-lender to carry on business under any name except-

(a) his true name; or

(b) the name of a firm in which he is a partner, not being a firm required by the Registration of Business Names Act to be registered; or

Cap. 389

(c) a business name, whether of an individual or of a firm in which he is a partner, under which he or the firm has, at the commencement of this Act, been registered for not less than three years under the Registration of Business Names Act.

Cap. 389

(4) A certificate shall come into force on the date specified therein, and shall expire on the next following 31st December.

(5) The Minister may, by statutory instrument, make regulations with respect to the procedure to be followed in making applications for certificates (including the notices to be given of intention to make such an application), and be given of intention to make such an application), and certificates shall be in such form as may be prescribed by regulations so made.

(6) A certificate shall not be refused except on some one or more of the following grounds:

(a) that satisfactory evidence has not been produced of the good character of the applicant, and, in the case of a company, of the persons responsible for the management thereof;

(b) that satisfactory evidence has been produced that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is not a fit and proper person to hold a certificate;

(c) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender, is by order of a court disqualified for holding a certificate;

(d) that the applicant has not complied with the provisions of any regulations made under this section with respect to applications for certificates.

(7) Any person aggrieved by the refusal of a subordinate court to grant a certificate may appeal to the High Court.

(As amended by G.N. No. 279 of 1964)

5. (1) Where any person, being the holder of a certificate, is convicted of any offence under this Act, or under section 2 or 4 of the Betting and Loans (Infants) Act, 1892, of the United Kingdom, the court-

Suspension and forfeiture of money-lenders' certificates

(a) may order that any certificate held by that person, and in the case of a partner in a firm by any other partner in the firm, shall either be suspended for such time as the court thinks fit, or shall be forfeited, and may also, if the court thinks fit, declare any such person, or any person responsible for the management of the money-lending business carried on by the person convicted, to be disqualified for obtaining a certificate for life or for such less time as the court thinks fit; and

(b) shall cause particulars of the conviction and of any order made by the court under this subsection to be endorsed on every certificate held by the person convicted or by any other person affected by the order, and shall cause copies of those particulars to be sent to the court by whom any certificate so endorsed was granted and to the Permanent Secretary:

Provided that-

Cap. 88

(i) where, by order of a court, the person convicted is disqualified for obtaining a certificate or his certificate is suspended or forfeited, he shall have the same right of appeal against the order as against his conviction or sentence, and the court making the order, may, if it thinks fit, pending the appeal, defer the operation of the order;

(ii) where, by order of a court, some person other than the person convicted is disqualified for obtaining a certificate or his certificate is suspended or forfeited, he shall be served by the court with notice of such order and if he gives notice of appeal within fourteen days of such service, shall have the same right of appeal against such order as though he were the person convicted, and the court shall, pending the service of the notice, defer the operation of the order and may, if it thinks fit, pending the appeal, further defer the operation of the order. Every notice under this proviso shall be signed by the Judge or magistrate making the order and shall be served in the manner provided for the service of a summons by the Criminal Procedure Code.

(2) Any certificate required by a court for endorsement in accordance with subsection (1) shall be produced, in such manner and within such time as may be directed by the court, by the person by whom it is held, and any person who, without reasonable causes, makes default in producing any certificate so required shall, in respect of each offence, be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding one hundred and fifty penalty units for each day during which the default continues.

(3) Where a certificate held by any person is ordered to be suspended or to be forfeited under subsection (1), any money-lender's licences granted to that person, whether in pursuance of that or any other certificate, shall be suspended during the period for which the certificate is ordered to be suspended or become void, as the case may be.

*(As amended by G.N. No. 279 of 1964
and Act No. 13 of 1994)*

6. (1) Without prejudice to the provisions of the last foregoing section and to the provisions of section *eighty-five* of the Companies Act and to the provisions of section *nineteen* of the Registration of Business Names Act, a money-lender shall not, for the purposes of his business as such, issue or publish, or cause to be issued or published, any advertisement, circular, business letter or other similar document which does not show in such manner as to be not less conspicuous than any other name, the authorised name of the money-lender, and any money-lender who acts in contravention of this subsection shall be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding six hundred penalty units in respect of each offence.

Names to be
stated on
documents
issued by
money-lenders.
Cap. 388
Cap. 389

(2) If a money-lender, for the purposes of his business as such, issues or publishes, or causes to be issued or published, any advertisement, circular or document of any kind whatsoever containing expressions which might reasonably be held to imply that he carries on banking business, he shall, on conviction by a subordinate court of the first or second class, be liable to a fine not exceeding three thousand penalty units

Provided that on a second or subsequent conviction of any person (other than a company) for an offence under this subsection, the court may, in lieu of or in addition to ordering the offender to pay the fine aforesaid, order him to be imprisoned for a term not exceeding three months, and an offender being a company shall on a second or subsequent conviction be liable to a fine not exceeding fifteen thousand penalty units:

(As amended by Act No. 13 of 1994)

7. (1) No person shall knowingly send or deliver or cause to be sent or delivered to any person, except in response to his written request, any circular or other document advertising the name, address or telephone

Restrictions on
money-lending
advertisements

number of a money-lender, or containing an invitation-

- (a) to borrow money from a money-lender;
- (b) to enter into any transaction involving the borrowing of money from a money-lender;
- (c) to apply to any place with a view to obtaining information or advice as to borrowing any money from a money-lender.

(2) Subject as hereinafter provided, no person shall publish or cause to be published in any newspaper or other printed paper issued periodically for public circulation, or by means of any poster or placard, an advertisement advertising any such particulars, or containing any such invitation, as aforesaid:

Provided that an advertisement in conformity with the requirements of this Act relating to the use of names on money-lenders' documents may be published by or on behalf of a money-lender in any newspaper or in any such paper as aforesaid or by means of a poster or placard exhibited at any authorised address of the money-lender, if it contains no addition to the particulars necessary to comply with the said requirements, except any of the following particulars, that is to say, any authorised address at which he carries on business as a money-lender and the telegraphic address and telephone number thereof, any address at which he formerly carried on business, a statement that he lends money with or without security, and of the highest and lowest sums that he is prepared to lend, and a statement of the date on which the business carried on by him was first established.

(3) No money-lender or any person on his behalf shall employ any agent or canvasser for the purpose of inviting any person to borrow money or to enter into any transaction involving the borrowing of money from a money-lender, or demand or receive, directly or indirectly, any sum or other valuable consideration by way of commission or otherwise for introducing or undertaking to introduce to a money-lender any person desiring to borrow money.

(4) Where any document issued or published by or on behalf of a money-lender purports to indicate the terms of interest upon which he is willing to make loans or any particular loan, the document shall either

express the interest proposed to be charged in terms of a rate per centum per annum or show the rate per centum per annum represented by the interest proposed to be charged as calculated in accordance with the provisions of the Schedule.

(5) Any person acting in contravention of any of the provisions of this section shall be guilty of an offence and shall, in respect of each offence, be liable, on conviction by a subordinate court of the first or second class, to imprisonment for a term not exceeding three months or to a fine not exceeding three thousand penalty units or to both.

(6) Where it is shown that a money-lending transaction was brought about by a contravention of any of the provisions of this section, the transaction shall, notwithstanding that the money-lender was duly licensed under this Act, be illegal, unless the money-lender proves that the contravention occurred without his consent or connivance.

(As amended by Act No. 13 of 1994)

8. If any money-lender, or any manager, agent or clerk of a money-lender, or if any person being a director, manager, or other officer of any corporation carrying on the business of a money-lender, by any false, misleading, or deceptive statement, representation, or promise, or by any dishonest concealment of material facts, fraudulently induces or attempts to induce any person to borrow money or to agree to the terms on which money is or is to be borrowed, he shall be guilty of an offence, and shall be liable, on conviction by a subordinate court of the first or second class, to imprisonment for a term not exceeding two years or to a fine not exceeding fifteen thousand penalty units, or to both.

Penalties for
false statements
and
representations

(As amended by Act No. 13 of 1994)

9. (1) No contract for the repayment by a borrower of money lent to him or to any agent on his behalf by a money-lender after the commencement of this Act, or for the payment by him of interest on money so lent, and no security given by the borrower or by any such agent as aforesaid in respect of any such contract, shall be enforceable, unless a note or memorandum in writing of the contract be made and signed personally by the borrower, and unless a copy thereof be delivered or sent to the borrower within seven days of the making of the contract; and no such contract or security shall be enforceable if it is proved that the note or memorandum aforesaid was not signed by the borrower before the money was lent or before the security was given, as

Form of
money-lenders'
contracts

the case may be.

(2) The note or memorandum aforesaid shall contain all the terms of the contract, and in particular shall show the date on which the loan is made, the amount of the principal of the loan, and either the interest charged on the loan expressed in terms of a rate per centum per annum, or the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule.

10. Subject as hereinafter provided, any contract made after the commencement of this Act for the loan of money by a money-lender shall be illegal in so far as it provides directly or indirectly for the payment of compound interest or for the rate or amount of interest being increased by reason of any default in the payment of sums due under the contract:

Prohibition of compound interest and provision as to defaults

Provided that provision may be made in writing by any such contract that, if default is made in the payment upon the due date of any sum payable to the money-lender under the contract, whether in respect of principal or interest, the money-lender shall be entitled to charge simple interest on that sum from the date of the default until the sum is paid, at a rate not exceeding the rate payable in respect of the principal apart from any default, and any interest so charged shall not be reckoned for the purposes of this Act as part of the interest charged in respect of the loan.

11. (1) In respect of every contract for the repayment of money lent by a money-lender, whether made before or after the commencement of this Act, the money-lender shall, on any reasonable demand in writing being made by the borrower at any time during the continuance of the contract and on tender by the borrower of the sum of ten ngwee for expenses, supply to the borrower or, if the borrower so requires, to any person specified in that behalf in the demand, a statement signed by the money-lender or his agent showing-

Obligation of money-lender to supply information as to state of loan and copies of documents relating thereto

(a) the date on which the loan was made, the amount of the principal of the loan and the rate per centum per annum of interest charged; and

(b) the amount of any payment already received by the money-lender in respect of the loan and the date on which it was made; and

(c) the amount of every sum due to the money-lender, but unpaid, and the date upon which it became due, and the amount of interest accrued due and unpaid in respect of every such sum; and

(d) the amount of every sum not yet due which remains outstanding, and the date upon which it will become due.

(2) A money-lender shall, on any reasonable demand in writing by the borrower, and on tender of a reasonable sum for expenses, supply a copy of any document relating to a loan made by him or any security therefor, to the borrower, or, if the borrower so requires, to any person specified in that behalf in the demand.

(3) If a money-lender to whom a demand has been made under this section fails, without reasonable excuse, to comply therewith within one month after the demand has been made, he shall not, so long as the default continues, be entitled to sue for or recover any sum due under the contract on account either of principal or interest, and interest shall not be chargeable in respect of the period of the default, and if such default is made or continued after proceedings have ceased to lie in respect of the loan, the money-lender shall be liable, on conviction by a subordinate court of the first or second class, to a fine not exceeding one hundred and fifty penalty units for every day on which the default continues.

(As amended by Act No. 13 of 1994)

12. (1) Where a debt due to a money-lender in respect of a loan made by him after the commencement of this Act includes interest, that interest shall, for the purposes of the provisions of the Bankruptcy Act relating to the presentation of a bankruptcy petition, voting at meetings, compositions and schemes of arrangement, and dividend, be calculated at a rate not exceeding five per centum per annum, but nothing in the foregoing provision shall prejudice the right of the creditor to receive out of the estate, after all the debts proved in the estate have been paid in full, any higher rate of interest to which he may be entitled. The provisions of this subsection shall, in relation to such a debt as aforesaid, have effect in substitution for the provisions of subsection (1) of section *sixty-eight* of the Bankruptcy Act.

Provisions as to
bankruptcy
proceedings for
money-lenders'
loans.
Cap. 82

(2) No proof of a debt due to a money-lender in respect of a loan made by him shall be admitted for any of the purposes of the Bankruptcy Act,

Cap. 82

unless the affidavit verifying the debt is accompanied by a statement showing in detail-

(a) the amount of the sums actually lent to the debtor and the dates on which they were lent, and the amount of every payment already received by the money-lender in respect of the loan and the date on which every such payment was made; and

(b) the amount of the balance which remains unpaid, distinguishing the amount of the principal from the amount of interest included therein, the appropriation between principal and interest being made in accordance with the provisions of this Act where the interest is not expressed by the contract for the loan in terms of a rate; and

(c) where the amount of interest included in the unpaid balance represents a rate per centum per annum exceeding five per centum, the amount of interest which would be so included if it were calculated at the rate of five per centum per annum.

(3) The Chief Justice may, with the concurrence of the Minister, by statutory instrument, make general regulations for carrying into effect the objects of this section.

(As amended by G.N. No. 279 of 1964)

13. Where, by a contract for the loan of money by a money-lender, the interest charged on the loan is not expressed in terms of a rate, any amount paid or payable to the money-lender under the contract (other than simple interest charged in accordance with the proviso to section *ten*) shall be appropriated to principal and interest in the proportion that the principal bears to the total amount of the interest, and the rate per centum per annum represented by the interest charged as calculated in accordance with the provisions of the Schedule shall be deemed to be the rate of interest charged on the loan.

Appropriation
of principal and
interest

14. (1) Where proceedings are taken in any court by a money-lender for the recovery of any money lent after the commencement of this Act, or the enforcement of any agreement or security made or taken after the commencement of this Act, in respect of money lent either before or after the commencement of this Act, and there is evidence which satisfies the court that the interest charged in respect of the sum actually lent is excessive, or that the amounts charged for expenses, inquiries, fines, bonus, premium, renewals, or any other charges, are excessive,

Reopening of
transactions of
money lenders

and that, in either case, the transaction is harsh and unconscionable, or is otherwise such that a court of equity would give relief, the court may reopen the transaction, and take an account between the money-lender and the person sued, and may, notwithstanding any statement or settlement of account or any agreement purporting to close previous dealings and create a new obligation, reopen any account already taken between them, and relieve the person sued from payment of any sum in excess of the sum adjudged by the court to be fairly due in respect of such principal, interest and charges, as the court, having regard to the risk and all the circumstances, may adjudge to be reasonable; and if any such excess has been paid, or allowed in account, by the debtor, may order the creditor to repay it; and may set aside, either wholly or in part, or revise, or alter, any security given or agreement made in respect of money lent by the money-lender, and if the money-lender has parted with the security may order him to indemnify the borrower or other person sued.

(2) Any court in which proceedings might be taken for the recovery of money lent by a money-lender shall have and may, at the instance of the borrower or surety or other person liable, exercise the like powers as may be exercised under this section, where proceedings are taken for the recovery of money lent, and the court shall have power, notwithstanding any provision or agreement to the contrary, to entertain any application under this Act by the borrower or surety, or other person liable, notwithstanding that the time for repayment of the loan, or any instalment thereof, may not have arrived.

(3) On any application relating to the admission or amount of a proof by a money-lender in any bankruptcy proceedings, the court may exercise the like powers as may be exercised under this section when proceedings are taken for the recovery of money.

(4) The foregoing provisions of this section shall apply to any transaction which, whatever its form may be, is substantially one of money-lending by a money-lender.

(5) Nothing in the foregoing provisions of this section shall affect the rights of any *bona fide* assignee or holder for value without notice.

(6) Nothing in this section shall be construed as derogating from the existing powers or jurisdiction of any court.

15. (1) Where, in any proceedings in respect of any money lent by a money-lender after the commencement of this Act or in respect of any agreement or security made or taken after the commencement of this Act in respect of money lent either before or after the commencement of this Act, it is found that the interest charged exceeds the rate of forty-eight per centum per annum, or the corresponding rate in respect of any other period, the court shall, unless the contrary is proved, presume for the purposes of section *fourteen*, that the interest charged is excessive and that the transaction is harsh and unconscionable, but this provision shall be without prejudice to the powers of the court under that section where the court is satisfied that the interest charged, although not exceeding forty-eight per centum per annum, is excessive.

Interest at a rate exceeding 48 per centum to be deemed harsh and unconscionable

(2) Where a court reopens a transaction of a money-lender under section *fourteen*, the court may require the money-lender to produce any certificate granted to him in accordance with the provisos of this Act, and may cause such particulars as the court thinks desirable to be endorsed on any such certificate, and a copy of the particulars to be sent to the court by whom the certificate was granted.

(3) The powers of a court under section *fourteen* with respect to the reopening of the transactions of money-lenders shall extend to any transaction effected under a special contract made in accordance with the provisions of section 24 of the Pawnbrokers Act, 1872, of the United Kingdom, and accordingly, for the purposes of section *fourteen*, the provisions of paragraph (a) of the definition of the term "money-lender" in section *two* shall not apply with respect to any such transaction.

(4) The powers of a court under subsection (2) of section *fourteen* may, in the event of the bankruptcy of the borrower, be exercised at the instance of the trustee in bankruptcy, notwithstanding that he may not be a person liable in respect of the transaction.

(5) The powers of a court under subsection (2) of section *fourteen* may be exercised notwithstanding that the money-lender's right of action for the recovery of the money lent is barred.

16. Subject as hereinafter provided, no action by a money-lender for the recovery of money lent by him or for enforcing any agreement or

Courts to which proceedings on

security relating to any such money shall be brought in any subordinate court other than a subordinate court of the first class:

money-lending transactions are to be taken

Provided that the Minister may, with the concurrence of the Chief Justice, by order direct that any subordinate court specified in the order shall have the same jurisdiction as respects such actions as aforesaid as it would have had but for the provisions of this section, and any such order may contain provisions with respect to the making of rules for regulating the procedure to be followed in the case of any such action.

(As amended by G.N. No. 279 of 1964)

17. Any agreement between a money-lender and a borrower or intending borrower for the payment by the borrower or intending borrower to the money-lender of any sum on account of costs, charges or expenses incidental to or relating to the negotiations for or granting of the loan or proposed loan shall be illegal, and if any sum is paid to a money-lender by a borrower or intending borrower as for or on account of any such costs, charges or expenses, that sum shall be recoverable as a debt due to the borrower or intending borrower, or, in the event of the loan being completed, shall, if not so recovered, be set off against the amount actually lent and that amount shall be deemed to be reduced accordingly.

Prohibition of charge for expenses on loans by money-lenders

18. (1) No proceedings shall lie for the recovery by a money-lender of any money lent by him after the commencement of this Act or of any interest in respect thereof, or for the enforcement of any agreement made or security taken after the commencement of this Act in respect of any loan made by him, unless the proceedings are commenced before the expiration of twelve months from the date on which the cause of action accrued:

Limitation of time for proceedings in respect of money lent by money-lenders

Provided that-

(i) if during the period of twelve months aforesaid or at any time within any subsequent period during which proceedings may by virtue of this proviso be brought, the debtor acknowledges in writing the amount due and gives a written undertaking to the money-lender to pay that amount, proceedings for the recovery of the amount due may be brought at any time within a period of twelve months from the date of the acknowledgment and undertaking;

(ii) the time limited by the foregoing provisions of this section for

the commencement of proceedings shall not begin to run in respect of any payments from time to time becoming due to a money-lender under a contract for the loan of money until a cause of action accrues in respect of the last payment becoming due under the contract;

(iii) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the person entitled to take the proceedings is *non compos mentis*, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until that person ceases to be *non compos mentis* or dies, whichever first occurs; and

(iv) if at the date on which the cause of action accrues or on which any such acknowledgment and undertaking as aforesaid is given by the debtor, the debtor is not within the Republic, the time limited by the foregoing provisions of this section for the commencement of proceedings shall not begin to run until he returns within the Republic:

Provided that where the cause of action has accrued against two or more joint debtors, the time limited by the foregoing provisions of this section for the commencement of proceedings shall commence to run from the date on which the cause of action accrued in the case of any one or more of such joint debtors who is or are within the Republic on such date, notwithstanding that some other one or more of such joint debtors is or are without the Republic on such date, but the person entitled to take the proceedings shall not be barred from commencing such proceedings against any joint debtor or joint debtors, who was or were without the Republic on the date on which the cause of action accrued, after his or their return within the Republic, by reason only that judgment has already been recovered against any one or more of such joint debtors who was or were within the Republic at the date aforesaid.

(2) Without prejudice to the powers of a court under section *fourteen*, if at the time when proceedings are taken by a money-lender in respect of a default in the payment of any sum due to him under a contract for the loan of money, any further amount is outstanding under the contract but not yet due, the court may determine the contract and order the principal outstanding to be paid to the money-lender with such interest thereon, if any, as the court may allow up to the date of payment.

19. (1) The provisions of sections *nine*, *seventeen* and *eighteen* shall not apply in relation to any loan by a pawnbroker on a pledge, or in relation to any debt in respect of such a loan, or any interest thereon, notwithstanding that the loan is not made in the course of the business carried on by the pawnbroker in accordance with any law for the time

Special
provisions as to
pawnbrokers'
loans

being in force in relation to pawnbrokers, so long as the following conditions are complied with in respect of the loan:

(a) the pawnbroker shall deliver or send to the pawner within seven days a note or memorandum containing all the terms of the contract, and in particular showing the date on which the loan is made, the amount of the principal of the loan, the interest charged on the loan expressed in terms of a rate per centum per annum, and any other charges payable by the pawner under the contract, and the rate of interest charged shall not exceed the rate of twenty per centum per annum;

(b) subject as hereinafter provided, the pawner shall not be charged any sum on account of costs, charges, or expenses incidental to or relating to the negotiations for or the granting of the loan or proposed loan, except a charge for the preparation of documents relating to the loan not exceeding the sum of ten ngwee, and a charge equal to the actual amount of any stamp duty paid by the pawnbroker upon any such document:

Provided that a pawnbroker shall not be deemed to have failed to comply with the foregoing conditions by reason of his having made in good faith and in accordance with the terms of the contract for the loan-

(i) a reasonable charge in respect of the storage or care of any pledge which is not physically delivered to him or which, although so delivered, is of such weight or size that it would not under the Postal Regulations for the time being in force be received for transmission by parcel post; or

(ii) a charge for interest at a rate not exceeding twenty per centum per annum upon any sum reasonably expended by the pawnbroker in respect of the storage or care of the pledge; or

(iii) a charge not exceeding ten ngwee for rendering any account of the sale of any pledge; or

(iv) a charge not exceeding ten ngwee in respect of any inspection of the pawnbroker's books.

(2) Any charge authorised by this section for the preparation of documents relating to a loan, or in respect of stamp duty upon any such document, may be deducted by the pawnbroker from the amount of the loan, and, if so deducted, shall be deemed for the purposes of this Act to be included in the principal.

20. (1) Where any debt in respect of money lent by a money-lender whether before or after the commencement of this Act or in respect of interest on any such debt or the benefit of any agreement made or security taken in respect of any such debt or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made-

Notice and information to be given on assignment of money-lender' debts

(a) give to the assignee notice in writing that the debt, agreement or security is affected by the operation of this Act; and

(b) supply to the assignee all information necessary to enable him to comply with the provisions of this Act relating to the obligation to supply information as to the state of loans and copies of documents relating thereto;

and any person acting in contravention of any of the provisions of this section shall be liable to indemnify any other person who is prejudiced by the contravention, and shall also be guilty of an offence, and shall in respect of each offence be liable, on conviction by a subordinate court of the first or second class, to imprisonment for a term not exceeding two years or to a fine not exceeding fifteen thousand penalty units, or to both.

(2) In this section, "assigned" means assigned by any assignment *inter vivos* other than an assignment by operation of law, and "assignor" and "assignee" have corresponding meanings.

(As amended by Act No. 13 of 1994)

21. (1) Subject as hereinafter provided, the provisions of this Act shall continue to apply as respects any debt to a money-lender in respect of money lent by him after the commencement of this Act or in respect of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, notwithstanding that the debt or the benefit of the agreement or security may have been assigned to any assignee, and, except where the context otherwise requires, references in this Act to a money-lender shall accordingly be construed as including any such assignee as aforesaid:

Application of Act as respects assignees

Provided that, notwithstanding anything in this Act-

(i) any agreement with, or security taken by, a money-lender in

respect of money lent by him after the commencement of this Act, shall be valid in favour of any *bona fide* assignee or holder for value without notice of any defect due to the operation of this Act, and of any person deriving title under him; and

(ii) any payment or transfer of money or property made *bona fide* by any person, whether acting in a fiduciary capacity or otherwise, on the faith of the validity of any such agreement or security, without notice of any such defect shall, in favour of that person, be as valid as it would have been if the agreement or security had been valid; and

(iii) the provisions of this Act limiting the time for proceedings in respect of money lent shall not apply to any proceedings in respect of any such agreement or security commenced by a *bona fide* assignee or holder for value without notice that the agreement or security was affected by the operation of this Act, or by any person deriving title under him;

but in every such case the money-lender shall be liable to indemnify the borrower or any other person who is prejudiced by virtue of this section, and nothing in this proviso shall render valid an agreement or security in favour of, or apply to proceedings commenced by, an assignee or holder for value who is himself a money-lender.

(2) Nothing in this section shall render valid for any purpose any agreement, security, or other transaction which would, apart from the provisions of this Act, have been void or unenforceable.

SCHEDULE
(Sections 7, 9 and 13)

**CALCULATION OF INTEREST WHERE THE INTEREST CHARGED ON A LOAN
IS NOT EXPRESSED IN TERMS OF A RATE**

1. The amount of principal outstanding at any time shall be taken to be the balance remaining after deducting from the principal the total of the portions of any payments appropriated to principal in accordance with the provisions of this Act.
2. The several amounts taken to be outstanding by way of principal during the several periods ending on the dates on which payments are made shall be multiplied in each case by the number of calendar months during which those amounts are taken to be respectively outstanding, and there shall be ascertained the aggregate amount of the sum so produced.
3. The total amount of the interest shall be divided by one-twelfth part of the aggregate amount mentioned in paragraph 2, and the quotient, multiplied by one hundred, shall be taken to be the rate of interest per centum per annum.
4. If, having regard to the intervals between successive payments, it is desired so to do, the calculation of interest may be made by reference to weeks instead of months, and in such a case the foregoing paragraphs shall have effect as though in paragraph 2 the word "weeks" were substituted for the words "calendar months", and in paragraph 3 the words "one-fifty-second" were substituted for the words "one-twelfth".
5. Where any interval between successive payments is not a number of complete weeks or complete months, the foregoing paragraphs shall have effect as though one day were one-seventh part of a week or one-thirtieth part of a month, as the case may be.

SUBSIDIARY LEGISLATION
MONEY-LENDERS

**SECTION 3-THE MONEY-LENDERS (APPLICATION
FOR LICENCE) REGULATIONS**
Regulations by the Minister

*Government
Notices
76 of 1938
279 of 1964*

1. These Regulations may be cited as the Money-lenders (Application for Licence) Regulations. Title

2. An applicant for a money-lender's licence shall send to the Permanent Secretary by registered post the certificate authorising the grant to him of a licence or, if he so desires, he may attend personally at the office of the Permanent Secretary and produce the said certificate. On payment of the prescribed fee and if satisfied that the certificate is in order, the Permanent Secretary shall issue licence to the applicant. Such licence shall be in the form set out in the Schedule. Method of application

(As amended by No. 279 of 1964)

SCHEDULE

(Regulation 2)

THE MONEY-LENDERS ACT

THE MONEY-LENDERS (APPLICATION FOR LICENCE) REGULATIONS

LICENCE

(Section 3)

Fee Paid

is hereby licensed to carry on
business as a money-lender at
under the name or style of

This licence shall expire on the 31st December, 19

*Permanent Secretary, Ministry of
Finance*

LUSAKA,

Date

(As amended by No. 279 of 1964)

**SECTION 4-THE MONEY-LENDERS (APPLICATION
FOR
CERTIFICATE) REGULATIONS**
Regulations by the Minister

*Government
Notice
77 of 1938
Statutory
Instruments
10 of 1964
5 of 1965*

1. These Regulations may be cited as the Money-lenders (Application for Certificate) Regulations. Title
2. Any person intending to apply for a certificate under section *four* of the Act (hereinafter referred to as "a certificate") shall lodge with the court having competent jurisdiction in the district in which the applicant intends to carry on business a statement in Form 1 in the Schedule. Form to be lodged with court
3. When a time has been fixed for the hearing of the application, such person- Steps to be taken by applicant
 - (a) shall serve personally or by registered post, not less than two weeks before the date fixed for the hearing of the application, a copy of the statement referred to in regulation 2 upon the officer in charge of the police for the district wherein the premises to which the application will relate are situate, or if there be no such officer, upon the Inspector General of Police, and shall at the same time inform him in writing of the date fixed for the hearing of the application;
 - (b) shall, unless the application relate merely to a renewal of a certificate, publish, on a date not more than four weeks nor less than two weeks before the date fixed for the hearing of the application, a notice in the *Gazette* and such notice shall set forth his true name, the name in which and the address at which he desires to be authorised to carry on business as a money-lender, and the court and time at which the application is to be heard;
 - (c) shall attend in person the court in which the statement has been lodged, and may be called upon to answer on oath such questions as the court may think necessary.
4. The court after hearing objections, if any, shall, if satisfied that no good grounds exist for refusing the certificate for which application has been made, issue a certificate in Form 2 in the Schedule. Certificate

5. A police officer not below the rank of Sub Inspector may, acting on the general or special instructions of the Inspector General of Police or on information received, by appearance in person before the court in which the application is being made, oppose the grant of a certificate. Police may oppose application

*(As amended by No. 10 of 1964
and No. 5 of 1965)*

6. Applications for certificates by two or more partners in a firm shall be made on the same day unless the court otherwise allows. Applications by partners

SCHEDULE

PRESCRIBED FORMS

THE MONEY-LENDERS ACT

**THE MONEY-LENDERS (APPLICATION FOR CERTIFICATE)
REGULATIONS
FORM 1
(Regulation 2)**

STATEMENT

1. The name of applicant. (If the applicant is a company, the name of the company should be stated here.) Cap. 389

2. Private address of applicant, or, in the case of a company, the registered address of the company.

3. Name under which it is desired to carry on business as a money-lender.

4. Address at which it is desired to carry on business.

The address to be entered is the address of the head office or branch in respect of which the application is being made. A separate application to the appropriate court must be made in respect of each branch.

5. True names and addresses of partners, if any.

6. Name of person or persons (other than owners or partners) responsible or proposed to be responsible for the management of the business. In the case of a company, the names of the directors, treasurer and secretary should be given.

7. Date of any previous certificate under the Money-lenders Act, and name and address authorised by such certificate.

8. If registered under the Registration of Business Names Act, date of registration and name and address under which registered.

9. Particulars of any convictions under the Money-lenders Act, of the applicant, his partner, or any person responsible or proposed to be responsible for the management of the business.

10. Particulars of any order under section 5 of the Money-lenders Act, suspending or forfeiting any certificate of, or disqualifying from obtaining a certificate, the applicant or his partner or any person responsible or proposed to be responsible for the management of the business.

11. Particulars of any refusal of a certificate to the applicant, or his partner or any person responsible or proposed to be responsible for the management of the business.

Dated.....

The applicant must be prepared, if necessary, to produce these certificates

Signature of Applicant

THE MONEY-LENDERS ACT

**THE MONEY-LENDERS (APPLICATION FOR CERTIFICATE)
REGULATIONS
FORM 2
(Regulation 4)**

CERTIFICATE

I, the undersigned, do hereby
certify that I do authorise the grant to A.B. of
of a money-lender's licence to carry on the business of a money-lender, under the style and
title of (here insert authorised name) at (here insert authorised address). This certificate
shall come into force on the day of 19
and shall expire on the day of 19
Dated this day of 19
(Stamp of Court)

Magistrate

SECTION 2A-THE MONEY-LENDERS (BODIES CORPORATE) (EXEMPTION) ORDER Order by the Minister	<i>Statutory Instrument</i> 127 of 1973 227 of 1973 80 of 1977
--	---

- | | |
|---|------------|
| 1. This Order may be cited as the Money-lenders (Bodies Corporate) (Exemption) Order. | Title |
| 2. The bodies corporate named in the Schedule are hereby granted exemption from the provisions of the Money-lenders Act. | Exemptions |

SCHEDULE

(Regulation 2)

1. Agricultural Finance Company.
2. Barclays Overseas Development Corporation, Limited.
3. Commonwealth Development Finance Company, Limited.
4. Industrial Finance Company.
5. Standard Chartered Merchant Bank Limited.

*(As amended by S.I. No. 227 of 1973
and 80 of 1977)*

CHAPTER 399 THE HIRE-PURCHASE ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Application
3. Interpretation

PART II

GENERAL PROVISIONS RELATING TO AGREEMENTS

4. Application of Part II
5. Provisions as to agreements
6. Supply of copies to purchaser
7. Provisions to be included in agreements
8. Invalidity of certain provisions
9. Purchaser entitled to certain information
10. Removal of goods
11. Removal of goods from Zambia
12. Conditions and warranties implied in agreements
13. Appropriation of payments made in respect of agreements
14. Negotiable instruments
15. Right of purchaser to be reinstated after return of goods to seller
16. Right of purchaser to pay outstanding balance of purchase price.
17. Passing of ownership
18. Right of purchaser to terminate hire-purchase agreement
19. Special provisions as to installation charges

20. Disposal of goods upon termination of agreement
21. Powers of the court
22. Waiver of rights by purchaser
23. Agreements binding on liquidator or trustee of owner
24. Bankruptcy of purchaser

PART III

FINANCIAL PROVISIONS RELATING TO AGREEMENTS

Section

25. Initial payments and periods for repayment
26. Time limit for certain actions
27. Control of purchase price

PART IV

MISCELLANEOUS

28. Exemptions
29. Saving

SCHEDULE-Initial payments and periods for payment

CHAPTER 399

HIRE-PURCHASE

An Act to make provision for the regulation of hire-purchase agreements and certain instalment sales, and for other purposes incidental to the foregoing.

[8th March, 1957]

Federal Acts
34 of 1956
14 of 1959
Acts No.
16 of 1969
13 of 1994
Government
Notices
439 of 1963
336 of 1964
497 of 1964
Statutory
Instrument
462 of 1969
257 of 1973
63 of 1976

PART I

PRELIMINARY

1. This Act may be cited as the Hire-Purchase Act.

Short title

2. The provisions of this Act shall not apply to any agreement under which the Government is the seller or, subject to the provisions of subsection (2) of section *twenty-nine*, to any agreement made before the commencement of this Act.

Application

(As amended by G.N. No. 439 of 1963)

3. (1) In this Act, unless the context otherwise requires-

Interpretation

"agreement" means a hire-purchase agreement or an instalment sale agreement;

"cash price", in relation to any goods, means the price at which the goods may be purchased outright for cash;

"goods" means any movable property which may lawfully form the subject-matter of a contract of hire or sale;

"hire-purchase agreement" means-

(a) any contract whereby goods are sold subject to the condition that notwithstanding delivery of the goods the ownership in such goods shall not pass except in terms of the contract and the purchase price is to be paid in two or more instalments;

(b) any contract which provides for the hiring of goods whereby the hirer has the right-

(i) to purchase such goods after two or more instalments have been paid in respect thereof; or

(ii) after two or more instalments have been paid in respect thereof, to continue or renew from time to time such hiring at a nominal rental, or to continue or renew from time to time the right to be in possession of the goods, without any further payment or against payment of a nominal amount periodically or otherwise;

whether or not the agreement may at any time be terminated by either party or one of the parties;

(c) any other contract which has, or contracts which together have, the same import as either or both the contracts defined in paragraph (a) or (b) of this definition, whatever form such contract or contracts may take;

"instalment" includes any cash amount payable in terms of paragraph (a) of subsection (1) of section *twenty-five* and, where no cash amount is

payable in terms of that paragraph, the amount of any deposit or initial payment payable under an agreement;

"instalment sale agreement" means any contract of sale under which- Cap. 2

- (a) the ownership in the goods sold passes either before or upon delivery;
- (b) the purchase price is to be paid in instalments, of which one or more are payable after delivery; and
- (c) the seller is entitled to the return of the goods sold if the purchaser fails to comply with any provision thereof;

and includes any other contract which has, or contracts which together have, the same import, whatever form such contract or contracts may take;

"purchase price" means the total sum payable by the purchaser under an agreement, including any sum payable by him by way of a deposit or other initial payment, or credited or to be credited to him under such agreement on account of any such deposit or payment, whether that sum is to be or has been paid to the seller or to any other person or is to be or has been discharged by a payment of money or by the transfer or delivery of goods or by any other means, but excluding any sum payable-

- (a) as compensation or damages for breach of the agreement;
- (b) for licence or registration fees;
- (c) for any insurance premiums which have been paid to insure the goods sold under the agreement;
- (d) by way of interest upon instalments which are in arrear; or
- (e) in respect of any installation as defined in subsection (2) of section *nineteen*;

"purchaser" means the person who, in terms of any agreement, is the purchaser or hirer, as the case may be, and includes his successors in title;

"seller" means the person who, in terms of any agreement, is the seller or the lessor, as the case may be, and includes his successors in title;

"writing"-

- (a) in relation to an agreement in a form the provisions of which this Act requires shall be set out in printed or typed letters, means printing or typewriting; and
- (b) in relation to an agreement which is not in a form such as is referred to in paragraph (a), means writing as defined in section *three* of

the Interpretation and General Provisions Act.

(2) References in sections *five*, *seven* and *twenty-five* to "contain", "set out" and "provide" shall, without derogation from the provisions of paragraph (a) of subsection (1) of section *five*, be construed as references to "contain expressly in writing", "set out expressly in writing" and "provide expressly in writing" respectively.

(3) Where a seller has agreed that any part of the purchase price may be discharged otherwise than by the payment of money, any such discharge shall, for the purposes of this Act, be deemed to be a cash payment of that part of the purchase price.

(As amended by No. 14 of 1959)

PART II

GENERAL PROVISIONS RELATING TO AGREEMENTS

4. Except for the provisions of sections *five*, *twenty-three* and *twenty-four*, which shall apply to every agreement or, as the case may be, to the parties to every agreement, the provisions of this Part shall not apply to an agreement under which the purchase price exceeds the sum of three thousand kwacha.

Application of
Part II

(No. 14 of 1959)

5. (1) Every agreement shall-

Provisions as to
agreements

(a) be reduced to writing and signed by or on behalf of all the parties to the agreement;

(b) contain a statement of the cash price.

(2) If an agreement does not comply with the provisions of subsection (1)-

(a) the goods which are the subject of the agreement shall be

deemed to have been sold to the purchaser-

- (i) without any reservation as to the ownership of the goods or, as the case may be, without any stipulation as to the seller's right to the return of the goods; and
 - (ii) on credit at a price, payable in the same manner as that stipulated in the agreement, which is twenty-five per centum less than the purchase price; and
- (b) the seller shall not be entitled to enforce any contract of suretyship, indemnity or guarantee relating to the agreement except, in the case of an agreement which has been the subject of a cession or assignment, against a surety or guarantor who was the original seller under the agreement:

Provided that if, in any action arising out of the agreement, the court is satisfied that the purchaser would not, but for the provisions of this subsection, have been prejudiced by the fact that the agreement does not comply with the provisions of subsection (1), the court may, subject to such conditions that it thinks just and equitable to impose, order the parties to carry out the terms of the agreement as if the agreement had complied with the provisions of subsection (1).

(As amended by No. 14 of 1959)

6. (1) It shall be the duty of the seller to hand or send by registered post to the purchaser a copy of any agreement entered into between them as soon as possible after it has been entered into. If a seller fails so to supply such a copy, the purchaser may hand or send to him by registered post a written request for the supply of such a copy, and any seller who, within fourteen days of the receipt of such a request, fails to hand such a copy to the purchaser, or send it to him by registered post, shall be guilty of an offence.

Supply of
copies to
purchaser

(2) Any person who is guilty of an offence under the provisions of subsection (1) shall be liable to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding thirty days.

(As amended by Act No. 13 of 1994)

7. (1) Every agreement shall set out-

Provisions to be
included in

- (a)
 - (i) the amount of the purchase price of the goods;
 - (ii) the amount paid or to be paid by the purchaser under the provisions of paragraph (a) of subsection (1) of section *twenty-five*;
 - (iii) the amount of each of the instalments by which the purchase price is to be paid;
 - (iv) the mode of payment of such instalments;
 - (v) the date or mode of determining the date on which each instalment is payable; and
 - (vi) the rate of interest, which shall not exceed the maximum rate of interest referred to in subsection (2) of section *eight*, chargeable upon an instalment in arrear;
 - (b) a description of the goods let, sold or delivered under the agreement and of any goods delivered to the seller under the provisions of paragraph (a) of subsection (1) of section *twenty-five* which is sufficient to identify them;
 - (c) the terms as to the reservation and passing of ownership of the goods or as to the seller's right to the return of the goods, as the case may be.
- (2) No seller shall, on or after the third anniversary of the commencement of this Act, use any form of agreement the provisions of which, whatever their nature, are not set out in clearly legible printed or typed letters of substantially the same size.
- (3) If an agreement does not comply with the provisions of subsection (1) or, on or after the 8th March, 1960, with the provisions of subsection (2)-
- (a) the goods which are the subject of the agreement shall be deemed to have been sold to the purchaser-

- (i) without any reservation as to the ownership of the goods or, as the case may be, without any stipulation as to the seller's right to the return of the goods; and
 - (ii) on credit at a price, payable in the same manner as that stipulated in the agreement, which is twenty-five per centum less than the purchase price; and
- (b) the seller shall not be entitled to enforce any contract of suretyship, indemnity or guarantee relating to the agreement except, in the case of an agreement which has been the subject of a cession or assignment, against a surety or guarantor who was the original seller under the agreement:

Provided that if, in any action arising out of the agreement, the court is satisfied that the purchaser would not, but for the provisions of this subsection, have been prejudiced by the fact that the agreement does not comply with the provisions of subsection (1), the court may, subject to such conditions that it thinks just and equitable to impose, order the parties to carry out the terms of the agreement as if the agreement had complied with the provisions of subsection (1).

(As amended by No. 14 of 1959)

8. (1) A provision of an agreement shall not be of any force or effect if it provides whether expressly or impliedly that-

Invalidity of
certain
provisions

- (a) the seller or any person acting on his behalf is authorised to enter upon any premises for the purpose of taking possession of goods which are the subject of any agreement, or is relieved from liability for any such entry;
- (b) the right conferred on a purchaser by this Act to determine the agreement is excluded or restricted;
- (c) any liability, in addition to the liability imposed by this Act, is imposed on a purchaser by reason of the termination of the agreement by him under this Act;
- (d) a purchaser, after the termination of the agreement in any manner whatsoever, is subject to a liability which exceeds the liability to which he would have been subject if the agreement had been terminated

by him under this Act;

(e) any person acting on behalf of a seller in connection with the formation or conclusion of an agreement is to be treated as or deemed to be the agent of the purchaser;

(f) a seller is to be relieved from liability for the acts or defaults of any person acting on his behalf in connection with the formation or conclusion of an agreement;

(g) the purchaser shall pay interest on an instalment in arrear at a rate which exceeds the maximum rate of interest referred to in subsection (2).

(2) The maximum rate of interest chargeable under an agreement on an instalment in arrear shall be the rate per centum per annum specified by the Minister in fixing, in terms of section *twenty-seven*, the maximum amount by which the purchase price under agreements of the class in question may exceed the cash price, which was so specified at the date of the agreement.

(As amended by No. 14 of 1959)

9. (1) If a purchaser hands or sends by registered post a request therefor to the seller and tenders to the seller a sum of fifty ngwee for expenses, the seller shall, within thirty days after the tender is received by him, hand or send by registered post to the purchaser all or any of the following particulars as the purchaser may specify:

Purchaser
entitled to
certain
information

(a) a statement signed by or on behalf of the seller, showing-

(i) the amount paid under the agreement by or on behalf of the purchaser and the date of each payment;

(ii) the amount due under the agreement and unpaid, the date upon which each unpaid instalment became due and the amount of each such instalment; and

(iii) the amount which is to become payable under the agreement, the date or mode of determining the date upon which each future instalment is to become payable and the amount of each such instalment;

(b) a copy of the agreement.

(2) In the event of a failure without reasonable cause to comply with subsection (1), then, while the default continues-

(a) no person shall be entitled to enforce the agreement against the purchaser or to enforce any contract of suretyship, indemnity or guarantee relating to the agreement, and the seller shall not be entitled to enforce any right to recover the goods from the purchaser; and

(b) no security given by the purchaser in respect of money payable under the agreement or given by a surety or guarantor in respect of money payable under such a contract of suretyship, indemnity or guarantee as aforesaid shall be enforceable by any holder thereof against the purchaser, surety or guarantor, as the case may be;

and, if the default continues for a period exceeding thirty days, the defaulter shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding thirty days.

(As amended by Act No. 13 1994)

10. (1) It shall be lawful for the seller of goods under a hire-purchase agreement to stipulate- Removal of goods

(a) that the purchaser shall record his address in such agreement; and

(b) that, if before the ownership of the goods has passed to the purchaser, the purchaser changes such address or at any time removes or allows such goods or any part thereof to be removed from any premises for keeping at other premises, he shall, prior to such change of address or removal, notify the seller or his agent in writing of all or any of the following particulars:

(i) his new address;

(ii) the premises to which such goods have been removed;

(iii) the name and address of the landlord, if any, of such new premises;

but no such stipulation shall require the purchaser to notify the seller more than forty-eight hours before such change or removal.

(2) If any purchaser fails to comply with any stipulation made in terms of subsection (1), he shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding thirty days. In any prosecution for a contravention of the provisions of subsection (1), it shall be a sufficient defence if the purchaser satisfies the court that his failure to comply with any such stipulation was due to circumstances over which he had no control.

(3) If the seller of goods under a hire-purchase agreement has given written notice of his ownership thereof to the landlord of the premises where such goods are kept, such landlord shall not have any hypothec or right of distress over such goods for rental.

(As amended by Act No. 13 of 1994)

11. (1) It shall be lawful for the seller of goods under a hire-purchase agreement to stipulate that the purchaser shall not remove or permit the removal of the goods from Zambia without the consent of the seller. Removal of goods from Zambia

(2) If a purchaser, in breach of a stipulation made in terms of subsection (1) and with intent to deprive the seller of his ownership of the goods or to defeat the rights of the seller to obtain any payment due to him under the agreement, removes or permits the removal of the goods from Zambia, he shall be guilty of an offence and liable to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding three months, or to both.

(3) If a hire-purchase agreement contains a stipulation such as is referred to in subsection (1) and the seller believes that the goods sold under the hire-purchase agreement have been removed or are being removed or are about to be removed from Zambia without his consent, he may bring an action for the return of the goods.

(4) A seller referred to in subsection (3) may, before bringing the action referred to in that subsection or while his action is pending, make an application, in which the purchaser or other person substantially interested in the goods shall be made respondent, to a court for an order for the attachment of the goods.

(5) An application for an order referred to in subsection (4) may be made, on summons or notice to the respondent or *ex parte*, to a court having jurisdiction in the area in which the respondent or the goods proposed to be attached may be or through which the goods are likely to be removed.

(6) The rules of court governing applications on summons or notice or, as the case may be, applications *ex parte* in interlocutory proceedings of a like nature to an application referred to in subsection (4) which are in force in the court to which such an application is made shall, subject to the provisions of subsections (7) to (9), *mutatis mutandis*, apply to that application.

(7) A court which makes an order *ex parte* for the attachment of goods in terms of this section may require the applicant to give such security for damages as may be caused by the order as the court may think fit.

(8) An order referred to in subsection (7)-

(a) may be discharged or varied by the court on cause shown by any person affected by the order and on such terms as to costs as the court may think fit; and

(b) shall *ipso facto* be discharged upon the giving of security by the respondent for the amount of the value of the goods to which the order relates, together with costs.

(9) If goods are attached by order of a court other than the court in which the action for the return of the goods is brought, the court which made the order of attachment shall cause copies of the application, order and proceedings, together with the goods attached or, as the case may be, the security given for their release, to be transmitted to the court in which the action is brought.

(As amended by No. 14 of 1959, G.N. No. 439 of 1963
and Act No. 13 of 1994)

12. (1) In every agreement there shall be-

Conditions and
warranties
implied in

(a) an implied warranty that the purchaser shall have and enjoy quiet possession of the goods;

(b) an implied condition on the part of the seller that he is not and will not be precluded from passing the ownership of the goods to the purchaser at the time when the ownership is to pass;

(c) an implied warranty that the goods shall be free from any charge or encumbrance in favour of any third party at the time when the ownership is to pass;

and such warranties and conditions shall be implied notwithstanding any agreement to the contrary.

(2) Every agreement shall be deemed to contain any warranties or conditions implied in a contract for the sale of goods.

(3) The seller shall not be entitled to rely on any provision in the agreement excluding or modifying any warranty or condition referred to in subsection (2) unless he proves that, before the agreement was made, the provision was brought to the notice of the purchaser and its effect made clear to him.

(As amended by G.N. No. 439 of 1963)

13. A purchaser who is liable to make payments to the same seller in respect of two or more agreements shall, notwithstanding any agreement to the contrary, be entitled, on making any payment in respect of the agreements which is not sufficient to discharge the total amount then due under all the agreements, to appropriate the sum so paid by him in or towards the satisfaction of the sum due under any one of the agreements, or in or towards the satisfaction of the sums due under any two or more of the agreements, in such proportions as he thinks fit, and, if he fails to make any such appropriations, the payment shall by virtue of this section be appropriated towards the satisfaction of the sums due under the respective agreements in the proportions which those sums bear to one another.

(As amended by Act No. 13 of 1994)

Appropriation
of payments
made in respect
of agreements

14. (1) If a seller takes from a purchaser any negotiable instrument

Negotiable

(other than a dated cheque which is not a post-dated cheque) in respect of any instalment or part of an instalment payable under the provisions of an agreement, the seller shall not have any right to recover any such instalment or part of an instalment in terms of the agreement, and any such seller shall be confined, in respect of the recovery of such instalment or part of an instalment, to his rights of action, if any, in relation to such negotiable instrument, so, however, that nothing in this subsection contained shall affect any other rights of such seller under the agreement or this Act. instruments

(2) If any negotiable instrument (other than a dated cheque which is not a post-dated cheque) is given or drawn by a purchaser in respect of any liability under an agreement, the seller shall when he takes it from the purchaser-

(a) write clearly on the face of such negotiable instrument the words "Issued in connection with a hire-purchase agreement" or "Issued in connection with an instalment sale agreement", as may be appropriate; and

(b) write clearly at the top of the first page of such agreement the words "A negotiable instrument has been issued in connection with this agreement" or "Negotiable instruments have been issued in connection with this agreement", as may be appropriate.

(3) Nothing contained in subsection (2) shall prevent the seller from writing on either the negotiable instrument or the agreement in question such further words as may serve to identify with greater particularity the negotiable instrument or agreement to which he refers.

(4) Any seller who fails to comply with the provisions of subsection (2) shall be guilty of an offence and liable to a fine not exceeding one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding thirty days.

(As amended by Act No. 13 of 1994)

15. (1) If the seller has, as a result of the failure of the purchaser to pay any instalment of the purchase price due under any agreement, recovered possession, otherwise than by an order of a court, of any goods to which the agreement relates, the purchaser shall, unless he himself has terminated the agreement, be entitled, if he pays all arrear Right of purchaser to be reinstated after return of goods to seller

instalments of the purchase price due under the agreement within a period of twenty-one days after the seller recovered possession of the goods, to the return of the goods at the seller's place of business or, if he has no place of business or if the purchaser so requests, at the premises in which the goods are kept, and to be reinstated in his rights under the agreement.

(2) The seller shall, after the return of the goods under subsection (1), be entitled to recover the reasonable expenses incurred by him in the taking and storing of such goods.

16. A purchaser shall at all times be entitled to pay any instalment of the purchase price before it is due and shall, if he pays the whole of the purchase price remaining unpaid in one amount, be entitled to the reduction of each instalment not due at the said date of payment by an amount calculated at the rate of five per centum per annum on such instalment in respect of the period by which the payment of such instalment is accelerated.	Right of purchaser to pay outstanding balance of purchase price
---	---

17. The ownership in any goods which are the subject of a hire-purchase agreement shall pass to the purchaser upon payment of all sums payable by him in terms of the agreement.	Passing of ownership
---	----------------------

18. (1) A purchaser shall, at any time before the final payment under a hire-purchase agreement falls due, be entitled, upon the return to the seller of any goods which are the subject of the agreement, to terminate the agreement by giving notice of termination in writing to any person entitled or authorised to receive the sums payable under the agreement.	Right of purchaser to terminate hire-purchase agreement
---	---

(2) On the termination of a hire-purchase agreement by the purchaser in terms of subsection (1), the purchaser shall be liable, without prejudice to any liability which has accrued before the termination-

(a) to pay to the seller-

(i) the amount, if any, by which one-half of the purchase price exceeds the sum of-

A. all instalments in respect of the purchase price paid by the purchaser before the date of the termination; and

B. all installments in respect of the purchase price in arrear at the date of the termination; or

(ii) if an amount less than the sum referred to in sub-paragraph (i) is payable under the agreement on its termination by the purchaser in terms of subsection (1), the amount payable under the agreement; and

(b) if the purchaser has failed to take reasonable care of the goods, to pay to the seller damages in respect of his failure.

(3) Nothing in this section shall prejudice any right of a purchaser to terminate a hire-purchase agreement otherwise than by virtue of this section.

(As amended by No. 14 of 1959)

19. (1) Where under any hire-purchase agreement the seller is required to carry out any installation and the agreement specifies the amount to be paid in respect of the installation, the reference in subsection (2) of section *eighteen* to one-half of the purchase price shall be construed as a reference to the aggregate of the said amount and one-half of the purchase price.

Special provisions as to installation charges

(2) For the purposes of this section, "installation" means-

(a) the installing of any gas or water pipe, or the installing of any line or other means of conveying, transmitting, distributing or supplying electricity;

(b) the fixing of goods to which the agreement relates to the premises where they are to be used, and the alteration of premises to enable any such goods to be used thereon; and

(c) where it is reasonably necessary that any such goods should be constructed or erected on the premises where they are to be used, any work carried out for the purpose of such construction or erection.

20. (1) If any agreement is lawfully terminated or rescinded at the instance of the seller after he has been paid fifty per centum of the purchase price, the seller shall not, save with the written consent of the purchaser, be entitled to recover possession of the goods which are the subject-matter of such agreement, but the goods shall be sold by a person appointed on the application of the seller by a magistrate, who, in making the appointment, shall have regard to the information available

Disposal of goods upon termination of agreement

to him as to the whereabouts of the goods and may give directions as to the advertisement and place, date and method of sale. Before making any appointment in terms of this subsection, the magistrate shall ascertain whether or not any negotiable instrument has been given or drawn by the purchaser in respect of any instalment or part of an instalment payable under the provisions of the agreement in question and, if any such instrument has been so given or drawn, the magistrate shall not appoint a person to sell the goods unless he is satisfied that-

(a) every such negotiable instrument has been cancelled or returned to the purchaser; or

(b) the seller has made arrangements to indemnify the purchaser against any liability on the part of the purchaser in respect of such instrument which may be in excess of the amount outstanding under the agreement after the disposal of the proceeds of the sale of the goods in terms of this section.

(2) The seller shall give notice of such appointment to the purchaser by handing it to him or sending it to him by registered post at his last known address.

(3) If the purchaser fails within fourteen days of such notice to deliver the goods to the person so appointed, the seller shall be entitled to recover possession of the goods, and the provisions of this section shall not apply in relation to such goods.

(4) After the sale, the person selling the goods shall, after deducting his reasonable costs, pay to the seller the purchase price and all other moneys payable in terms of the agreement, less the total amount of any payments actually made thereunder, and shall pay over the balance of the proceeds of the sale to the purchaser.

(5) In the event of the net proceeds of the sale being insufficient to discharge the amount outstanding under the agreement, the seller may recover such amount from the purchaser.

(6) If any dispute arises as to the amount payable to the purchaser or the seller, the person selling such goods shall deposit the amount in dispute with a magistrate, who shall retain such amount pending action brought

by either party to the agreement against the other, and the person who sold the goods shall be discharged from any further liability in the matter.

(7) Where a hire-purchase agreement has been terminated under this section, the purchaser shall, if he has failed to take reasonable care of the goods, be liable to pay damages for the failure.

(As amended by No. 14 of 1959)

21. (1) In any action by the seller for the return of any goods to which any agreement relates, the court may, without prejudice to any other power and subject to the provisions of sections *eighteen* and *twenty-* Powers of the court

(a) make an order for the return of the goods to the seller, subject to repayment by the seller of so much of the purchase price received by him as the court may deem just;

(b) make an order for the return of a part of the goods to the seller and-

(i) in the case of an instalment sale agreement, for the retention by the purchaser of the remainder of the goods; or

(ii) in the case of a hire-purchase agreement, for the transfer to the purchaser of the seller's title to the remainder of the goods;

(c) make an order-

(i) in the case of an instalment sale agreement, for the retention by the purchaser of part of the goods; or

(ii) in the case of a hire-purchase agreement, for the transfer to the purchaser of the seller's title to part of the goods;

and an order referred to in paragraph (e) in respect of the remainder of the goods;

(d) make an order referred to in paragraph (b), subject to-

(i) repayment by the seller of so much of the purchase price received by him; or

(ii) payment by the purchaser of so much of the unpaid balance of the purchase price;

as the court may deem just; or

(e) make an order requiring the goods to be sold by public auction by a person appointed by the court, within a period stated in the order, or, if the parties so agree, by private treaty.

(2) No order shall be made in terms of sub-paragraph (ii) of paragraph (d) of subsection (1) unless the purchaser satisfies the court that the order will be carried out forthwith.

(3) In making any order in terms of this section, the court may, if any negotiable instrument has been given or drawn by the purchaser in respect of any instalment or part of an instalment payable under the provisions of the agreement in question, order that the seller shall-

(a) cancel such negotiable instrument or return it to the purchaser; or

(b) indemnify the purchaser against any liability on the part of the purchaser in respect of such negotiable instrument.

(4) Any order referred to in paragraph (e) of subsection (1) shall state-

(a) the total amount found by the court to be payable under the agreement;

(b) the amount fixed by the court as damages for any failure by the purchaser to take reasonable care of the goods;

(c) the total amount of payments so found to have been made thereunder;

(d) the party by whom the costs incidental to the sale shall be borne; and

(e) any directions given by the court as to advertisement and the place, date and method of the sale of the goods;

and the court may, when making any such order, at the same time order the purchaser to pay to the seller the deficiency referred to in subsection (6), if any.

(5) If any goods are sold in pursuance of an order referred to in paragraph (e) of subsection (1), the person appointed by the court or, in the case of a sale by private treaty, the seller shall, after deducting-

(a) any costs incidental to the sale awarded by the court against the purchaser;

(b) any other costs so awarded; and

(c) the total amount stated in the order to be payable under the agreement, less the total amount of payments so stated to have been made thereunder;

pay over the balance of the proceeds of the sale to the purchaser. Any costs incidental to the sale which have been so awarded shall be a first charge upon the proceeds of the sale.

(6) If the net proceeds of the sale are insufficient to discharge the purchaser's liability in respect of any costs referred to in subsection (5) and his liability under the agreement, the seller may recover the deficiency from the purchaser.

(7) If damages have been awarded against the seller in the proceedings, the amount thereof or so much of such amount as the court may determine shall be deemed to have been paid by the purchaser in respect of the purchase price of the goods, and thereupon the damages shall be remitted either in whole or in part.

(8) On the institution of an action referred to in subsection (1) and pending the conclusion of the proceedings, the court shall, in addition to any other powers, have power, upon the application of the seller, to make such orders as the court may deem just for the purpose of protecting the goods from damage or depreciation, including orders restricting or prohibiting the use of the goods or giving directions as to their custody.

22. No waiver by any purchaser of any right under this Act shall be of any force or effect. Waiver of rights
by purchaser

23. If a company is being wound up under the provisions of the Agreements

Companies Act, or the estate of a person is sequestrated under an enactment in force in Zambia relating to bankruptcy, any agreement entered into by such company or person as owner shall remain of full force and effect and shall be binding on the liquidator of such company or the trustee of such estate, as the case may be:

binding on
liquidator or
trustee of
owner.
Cap. 388

Provided that nothing in this section shall affect the powers of the court to set aside any disposition of property made by way of undue preference.

*(As amended by G.N. No. 439 of 1963
and G.N. No. 336 of 1964)*

24. (1) In this section, "trustee's expenses", in relation to goods which are the subject of an agreement entered into by a purchaser referred to in paragraph (a) of subsection (2), means-

Bankruptcy of
purchaser

- (a) the trustee's remuneration in respect of the goods; and
- (b) the costs incurred by the trustee in conserving the goods; and
- (c) all other expenses of liquidation or administration incurred by the trustee in connection with the goods.

(2) (a) If, under the provisions of the Bankruptcy Act, a purchaser is adjudged or otherwise declared bankrupt, the goods which are the subject of the agreement entered into by the purchaser shall, notwithstanding the terms of the agreement, vest in his trustee:

Cap. 82

Provided that if the goods are used by the trustee on behalf of the purchaser's estate, the trustee shall pay to the seller, as a cost in the administration of the estate, each instalment in respect of the purchase price which becomes due under the agreement during the period the goods are so used.

(b) The trustee of a purchaser referred to in paragraph (a) shall pay to the seller out of the proceeds of the sale of the goods referred to in that paragraph, reduced by the amount of the trustee's expenses and the cost of realising the goods, so far as there are proceeds available, an amount equal to the balance of the unpaid purchase price together with all other sums due to the seller under the agreement.

(c) If the full amount due to the seller in terms of paragraph (b) is unpaid by reason of the insufficiency of the proceeds of the sale of the goods, the seller shall, unless he relies for the satisfaction of the payment due to him solely on the proceeds of the sale of the goods, have a claim in the bankruptcy in respect of the balance.

(3) (a) The trustee of a purchaser referred to in paragraph (a) of subsection (2) shall give not less than twenty-eight days' notice in writing to the seller of the date on which he proposes to sell the goods which are the subject of the agreement.

(b) The trustee shall, if required in writing by the seller not less than seven days before the date referred to in paragraph (a), deliver the goods to the seller on the prepayment by the seller of the cost of delivery and the trustee's expenses.

(c) On the delivery of the goods to the seller, the seller shall thereupon have, in respect of the goods, a lien or right of retention with all the rights of a creditor holding a security under any enactment or the common law in force in Zambia.

(d) In proving a claim in bankruptcy a seller referred to in this subsection shall state in his affidavit or other document of claim the nature, particulars and value of his security.

(4) If the purchaser is a company which is in course of being wound up under the provisions of the Companies Act, the provisions of subsections (2) and (3) shall apply as if the company were an individual adjudged or otherwise declared bankrupt and the liquidator of the company were the trustee of the purchaser. Cap. 388

(5) The provisions of this section shall, notwithstanding the provisions of section *two*, apply in relation to an agreement under which the Government is the seller.

(No. 14 of 1959 as amended by G.N. No. 439 of 1963 and G.N. No. 336 of 1964)

PART III

FINANCIAL PROVISIONS RELATING TO AGREEMENTS

25. (1) Every agreement under which the purchase price exceeds twenty kwacha shall provide-

Initial payments
and periods for
repayment

(a) that payment shall be made in money (which for this purpose shall include a cheque) or in goods before any of the goods which are the subject of the agreement are delivered to the purchaser of a sum equal at least to that percentage of the cash price which is specified in the third column of the Schedule for the particular class of goods sold under the agreement; and

(b) subject to the provisions of subsection (6), that the period within which the full purchase price is payable shall not exceed the period specified in the fourth column of the Schedule for the particular class of goods sold under the agreement.

(2) The period referred to in paragraph (b) of subsection (1) shall be reckoned from the date of the payment made in terms of paragraph (a) of that subsection:

Provided that, if the agreement provides for the delivery of the goods which are the subject of the agreement from a place outside Zambia to a purchaser who at the time of delivery is outside Zambia, the period shall, at the election of the seller, be reckoned from the date on which the goods are first imported into Zambia.

(3) If an agreement does not comply with the provisions of subsection (1) or payment has not been made in terms of paragraph (a) of that subsection-

(a) the goods which are the subject of the agreement shall be deemed to have been sold to the purchaser-

(i) without any reservation as to the ownership of the goods or, as the case may be, without any stipulation as to the seller's right to the

return of the goods; and

(ii) on credit at a price, payable in the same manner as that stipulated in the agreement, which is twenty-five per centum less than the purchase price; and

(b) the seller shall not be entitled to enforce any contract of suretyship, indemnity or guarantee relating to the agreement except, in the case of an agreement which has been the subject of a cession or assignment, against a surety or guarantor who was the original seller under the agreement.

(4) No payment in cash shall, to the extent to which it is made out of moneys borrowed directly or indirectly from or through the seller or any person whose business or part of whose business it is by arrangement with the seller to advance money for payments under agreements with the seller, and no payment in goods shall, to the extent to which the amount thereof exceeds the normal market price for the goods, be deemed to be a payment for the purposes of paragraph (a) of subsection (1).

(5) (a) The Minister may, by statutory order, vary or amend the Schedule, re-classify the categories of goods set out in the Schedule, add new categories of goods to, or delete any categories of goods from, the Schedule.

(b) Any variation or amendment of the Schedule made by the Minister under the provisions of paragraph (a) may provide for-

(i) different percentages of the cash price payable under the provisions of paragraph (a) of subsection (1); or

(ii) different periods within which the full purchase price is payable under the provisions of paragraph (b) of subsection (1);

for different classes of purchasers.

(c) For the purposes of paragraph (b), the purchasers may be classified in different categories on the ground that they are citizens of Zambia or not citizens of Zambia, Zambian bodies corporate or non-Zambian bodies corporate, Zambian partnerships or non-Zambian partnerships.

(d) No variation or amendment of the Schedule by the Minister shall

affect the operation of any agreement entered into prior to the date of publication of such variation or amendment.

(6) Subject to the provisions of subsection (7), the obligation imposed on a purchaser to pay instalments under an agreement shall, notwithstanding anything contained in this Act or in the agreement, be suspended for any period during which the purchaser-

(a) is employed in terms of subsection (1) of section *one hundred and ninety-three* or subsection (1) of section *two hundred and two* of the Defence Act, otherwise than as a member of the Regular Force referred to in subsection (1) of section *four* of that Act; or Cap. 106

(b) is fully engaged on police duties as a member of a police reserve established by the Zambia Police Reserve Act. Cap. 117

(7) The obligation of a purchaser to pay instalments under an agreement shall not be suspended in terms of subsection (6)-

(a) for more than a continuous period of one hundred and twenty days; or

(b) in the case of a purchaser referred to in paragraph (a) or (b) of subsection (6), unless and until the purchaser has been employed in terms of subsection (1) of section *one hundred and ninety-three* or subsection (1) of section *two hundred and two* of the Defence Act, or, as the case may be, has been engaged on police duties as a member of a police reserve for a continuous period of at least fourteen days. Cap. 106

(8) (a) In this section, unless the context otherwise requires-
"Zambian body corporate" means a body corporate which is incorporated under the laws of Zambia and-

(i) is certified under the hand of the Minister to be controlled by the State; or

(ii) A. whose membership is composed exclusively of persons who are citizens of Zambia; and

B. whose directors are exclusively citizens of Zambia; and

C. which is not controlled, by any means, directly or indirectly, outside Zambia, or by persons who are not citizens of Zambia or who

are associated in the capital structure thereof with persons who are not citizens of Zambia;

"Zambian partnership" means a partnership which is composed exclusively of persons who are citizens of Zambia;

"non-Zambian body corporate" means a body corporate other than a Zambian body corporate;

"non-Zambian partnership" means a partnership other than a Zambian partnership.

(b) For the purposes of this subsection, persons shall be deemed to control a body corporate notwithstanding that other persons are associated with them in the control thereof, if they can override those other persons.

(As amended by No. 14 of 1959, G.N. No. 439 of 1963 and Act No. 16 of 1969)

26. (1) A seller shall have no right to institute a suit or action for-

Time limit for
certain actions

(a) the return of goods to which an agreement relates; or

(b) the recovery of a portion of the purchase price due under an agreement;

after the lapse of the period prescribed by subsection (2).

(2) The period after the lapse of which no suit or action referred to in subsection (1) may be brought shall be the period, fixed by or under subsection (3), which was so fixed at the time the right to institute the suit or action first accrued.

(3) The period to which the provisions of subsection (2) relate shall be-

(a) such number of days, not less than one hundred and fifty, as the Minister may by statutory notice fix; or

(b) if no period is fixed in terms of paragraph (a), three hundred and sixty-five days;

commencing on the day following the last day of the appropriate period within which this Act requires the full purchase price to be paid.

(4) In determining for the purposes of paragraph (a) or, as the case may be, paragraph (b) of subsection (3) the number of days which have elapsed, there shall not be taken into account any period during which-

(a) the purchaser was absent from Zambia; or

(b) service of summons issued by the seller for the return of any goods or the recovery of any portion of the purchase price could not be effected owing to the whereabouts of the purchaser being unknown or owing to the purchaser wilfully evading service or owing to his absence from Zambia; or

(c) the seller was a minor or was of unsound mind; or

(d) the obligation of the purchaser to pay instalments was suspended in terms of subsection (6) of section *twenty-five*.

(5) The provisions of this section shall not apply if at any time before the end of the period of limitation prescribed by subsection (2) the seller or purchaser-

(a) is adjudged or otherwise declared bankrupt; or

(b) makes an assignment to or composition with his creditors; or

(c) being a company, is wound up or placed under judicial management; or

(d) dies.

(No. 14 of 1959 as amended by G.N. No. 439 of 1963)

27. (1) The Minister shall, for all classes of agreement and goods, by statutory notice, fix the maximum amount, to be determined by reference to the rate per centum per annum referred to in subsection (2), by which the purchase price under an agreement may exceed the cash price.

Control of
purchase price

(2) The rate per centum per annum to which the provisions of subsection (1) relate shall be a rate per centum per annum, specified by the Minister in the notice referred to in that subsection, of the balance of the cash price remaining unpaid before the due date of each instalment.

(3) The Minister may, in fixing the maximum amount referred to in subsection (1), make different provision in respect of different classes of agreements and different classes of goods.

(4) A provision in an agreement shall be of no effect in so far as it provides for the payment of a purchase price exceeding the cash price by more than the appropriate amount fixed in terms of subsection (1) at the date of the agreement, and the amount of each instalment payable under an agreement containing such a provision shall be decreased accordingly.

(No. 14 of 1959 as amended by G.N. No. 439 of 1963)

PART IV

MISCELLANEOUS

28. The Minister may, by statutory notice, order that any agreement or class of agreements entered into by any body corporate established directly by a law of Zambia or by the Federation of Rhodesia and Nyasaland (Dissolution) Order in Council, 1963, shall be exempted from any of the provisions of this Act.

Exemptions
App.2

(As amended by G.N. No. 439 of 1963)

29. (1) Subject to the provisions of subsection (2), the Hire-Purchase Act, Chapter 236 of the 1952 Edition of the Laws, is hereby repealed.

Saving

(2) Notwithstanding the provisions of subsection (1), agreements made before the commencement of this Act shall continue to be subject to the legislation to which they were subject immediately prior to such date and, for that purpose, such legislation shall be deemed to remain in force.

SCHEDULE
(Section 25)

INITIAL PAYMENTS AND PERIODS FOR PAYMENT

<i>Class of Goods</i>	<i>Description of Goods</i>	<i>Percentage of cash to be paid before delivered</i>	<i>Period within which purchase price goods are (months)</i>	<i>is payable</i>
A	Agricultural and irrigation machinery and equipment and any other goods mainly used for agricultural purposes where an agricultural officer has certified the intended use of such goods	20	30	
B	Motor assisted cycles; motor cars including estate cars and station wagons; motor cycles; motor cycle combinations; motor scooters	33 ^{1/3}	24	
C	Ambulances; hearses; lorries; road passenger vehicles designed to seat more than eight persons; vans designed for commercial purposes; vanettes	33 ^{1/3}	30	
D	Motor vehicles other than those referred to in Class B and Class C	33 ^{1/3}	24	
E	Commercial, industrial and mining plant and machinery; earth moving equipment	20	36	
F	Accounting, adding, calculating and cash register machines; aircraft air-conditioning units; bicycles; boats; cameras; caravans (non-motorised); duplicating machines; floor polishers; furniture; geysers; invalid tricycles; lawn mowers; marine engines (including outboard motors); pianos; radios; radiograms; refrigerators; sewing machines; stoves; tape recorders; television sets; television-radiogram sets; vacuum cleaners; washing machines	25	18	
G	Any other goods	25	18	

(As amended by S.I. No. 462 of 1969 , No. 257 of 1973 and No. 63 of 1976)

SUBSIDIARY LEGISLATION

HIRE-PURCHASE

CAP. 399

SECTION 26-THE HIRE-PURCHASE (LIMITATION OF TIME) (VARIATION) NOTICE

***Federal
Government
Notice
224 of 1958***

Notice by the Minister

1. This Notice may be cited as the Hire-Purchase (Limitation of Time) (Variation) Notice. Title

2. The number of days from the end of the period within which the full purchase price is payable under an agreement within which a suit or action shall be instituted for the return of any goods to which the agreement relates or for the recovery of any portion of the purchase price due under the agreement is hereby increased to three hundred and sixty-five days. Time limit for certain actions

THE HIRE-PURCHASE (FINANCE CHARGES) NOTICE

***Statutory Instrument
33 of 1985***

Notice by the Minister

1. This Notice may be cited as the Hire-Purchase (Finance Charges) Notice. Title

2. For all classes of agreement, the purchase price shall not exceed the cash price by more than the aggregate of the following: Purchase price

(a) reasonable accountancy costs, credit control and collection expenses and other administrative costs connected with the agreement, other than the sums excluded from the purchase price in terms of sub-section (1) of section *three* of the Act; and

(b) interest, on the balance of the cash price remaining unpaid before the due date of each instalment, at a rate-

- (i) in respect of new goods, of 7.19 per centum; or
- (ii) in respect of used goods, of 9.54 per centum;
over the bank interest rate as determined by the Bank of Zambia
from time to time.

**SECTION 28-EXEMPTION FROM PART III OF THE
HIRE-PURCHASE ACT**

*Federal
Government
Notice
58 of 1957
Government
Notice
439 of 1963*

Notice by the Minister

It is hereby ordered that any agreement entered into by the body corporate specified in the Schedule shall be exempted from the provisions of Part III of the Act.

SCHEDULE

Central African Power Corporation

(G.N. No. 439 of 1963)

**SECTION 25-THE HIRE-PURCHASE (SCHEDULE)
(VARIATION) ORDER**

***Statutory
Instrument
63 of 1976***

Order by the Minister

1. This Order may be cited as Hire-Purchase (Schedule) (Variation) Order. Title

2. The Schedule to the Hire-Purchase Act is varied and amended so as to read as follows: Variation of
Schedule to
Cap. 691

SCHEDULE

(Section 25)

INITIAL PAYMENTS AND PERIODS OF PAYMENT

<i>Class of Goods</i>	<i>Description of Goods</i>	<i>Percentage of cash to be paid before delivered</i>	<i>Period within which purchase price goods are is payable (months)</i>
A	Agricultural and irrigation machinery and equipment and any other goods mainly used for agricultural purposes where an agricultural officer has certified the intended use of such goods	20	30
B	Motor assisted cycles; motor cars (including estate cars and station wagons); motor cycles; motor cycle combinations; motor scooters	33 ^{1/3}	24
C	Ambulances; hearses; lorries; road passenger vehicles designed to seat more than eight persons; vans designed for commercial purposes; vanettes	33 ^{1/3}	30
D	Motor vehicles other than those referred to in Class B and Class C	33 ^{1/3}	24
E	Commercial, industrial and mining plant and machinery; earth moving equipment	20	36
F	Accounting, adding, calculating and cash register machines; aircraft; air-conditioning units; bicycles; boats; cameras; caravans (non-motorised); duplicating machines; floor polishers; furniture; geysers; invalid tricycles; lawn mowers; marine engines (including outboard motors); pianos; radios; radiograms; refrigerators; sewing machines; stoves; tape recorders; television sets; television-radiogram sets; vacuum cleaners; washing machines	25	18
G	Any other goods	25	18

3. The Hire-Purchase (Schedule) (Variation) Order, 1973, is hereby revoked.

*Revocation of
S.I. No. 257 of
1973*

**SECTION 28-THE HIRE-PURCHASE (EXEMPTION)
ORDER**

*Statutory
Instrument
32 of 1989*

Order by the Minister

1. This Order may be cited as Hire-Purchase (Exemption) Order.

Title

2. Any agreement entered into by the body corporate specified in Part I of the Schedule for the hire-purchase of the aircraft specified in Part II of the Schedule shall be exempted from the provisions of the Act.

Exemption

SCHEDULE

(Paragraph 2)

PART I

MINES AIR SERVICES LIMITED

PART II

Aircraft being hire-purchased:

Type of Aircraft	(i) Beech 300 S/N FA166, Reg. 9J-AFI (ii) Beech 1900 S/N UC43, Reg. 9J-AFJ
Value of Aircraft	US \$3,000,000 (Beech 300) US \$3,800,000 (Beech 1900)

CHAPTER 400 THE PATENTS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

ADMINISTRATION

3. Establishment of Patent Office
4. Appointment of officers
5. Seal.
6. Register of patents

PART III

INTERNATIONAL PROVISIONS

7. Convention arrangements
8. Convention applications
9. Special provisions as to vessels, aircraft and land vehicles
10. Protection of inventions communicated under international agreements
- 10A. ARIPO Patents

PART IV

APPLICATIONS GENERALLY

11. Persons entitled to make application
12. Form of application
13. Complete and provisional specifications

14. Contents of specification
15. Effective date of claims of complete specification
16. Examination of applications and specifications
17. Ante-dating and post-dating of applications

Section

18. Refusal of application in certain cases
19. Powers of Registrar if specification or application defective
20. Lapsing of applications
21. Acceptance and publication of complete specification
22. Opposition to grant of patent
23. Substitution of applicants
24. Provisions for secrecy of certain inventions

PART V

GRANT, EFFECT AND TERM OF PATENT

25. Grant and sealing of patent
26. Amendment of patent granted to deceased applicant
27. Date of patent
28. Extent, effect and form of patent
29. Term of patent
30. Extension of patent
31. Patents of addition
32. Renewal of patents
33. Restoration of lapsed patents
34. Protective provisions to be inserted in order for restoration of patent
35. Endorsement of patent "licences of right"
36. Cancellation of endorsement made under section 35
37. Compulsory licence in case of abuse or insufficient use of patent rights
38. Inventions relating to food or certain other commodities
39. Supplementary provisions as to licences
40. Use of patented inventions for services of the State

- 41. Special provisions as to State use during emergency
- 42. Reference of disputes as to State use

PART VI

SPECIAL PROVISIONS RELATING TO SPECIFICATIONS, ANTICIPATION AND RIGHTS IN INVENTIONS

- 43. Amendment of specification by Registrar
- 44. Amendment of specification with leave of High Court

Section

- 45. Restrictions on recovery of damages in certain cases
- 46. Savings for anticipation
- 47. Co-ownership of patents
- 48. Disputes as to inventions made by employees
- 49. Avoidance of certain restrictive conditions in contracts
- 50. Revocation of patents
- 51. Consequences of revocation on grounds of fraud
- 52. Surrender of patents

PART VII

INFRINGEMENTS

- 53. Procedure and conditions in action for infringement
- 54. Relief for infringement of partially valid specification
- 55. Restrictions on recovery of damages for infringement
- 56. Remedy for groundless threats of infringement proceedings
- 57. Power of Court to make declaration as to non-infringement.
- 57A. Definition of Court

PART VIII

ASSIGNMENTS AND CORRECTIONS

- 58. Provisions as to assignments
- 59. Power of Registrar to authorise corrections

- 60. Rectification of register

PART IX

FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS

- 61. Evidence of certain entries and documents
- 62. Requests for information as to patent or patent application
- 63. Loss or destruction of patent
- 64. Exercise of discretionary powers of Registrar
- 65. Proceedings before Registrar
- 66. Advertisements to be approved by Registrar

PART X

PATENT AGENTS

Section

- 67. Patent agents and their functions
- 68. Qualification and registration of patent agents
- 69. Removal of names from register of patent agents
- 70. Privileges of legal practitioners
- 71. Entitlement to practise as patent agent
- 72. Prohibition of certain acts by patent agents

PART XI

APPEALS

- 73. Appeals from Registrar
- 74. *Repealed by Act No. 18 of 1980*
- 75. *Repealed by Act No. 18 of 1980*
- 76. *Repealed by Act No. 18 of 1980*
- 77. *Repealed by Act No. 18 of 1980*

- 78. Appeals to Supreme Court
- 79. *Repealed by Act No. 18 of 1980*
- 80. Time for appeals
- 81. Rules of court
- 82. References to High Court by Registrar

PART XII

OFFENCES AND PENALTIES

- 83. Falsification of certain documents
- 84. Deceiving or influencing the Registrar or an officer
- 85. Witness giving false evidence
- 86. Prohibition on trafficking in patents by officers in Patent Office
- 87. Unauthorised claim of patent right
- 88. Unauthorised use of certain words
- 89. Penalties

PART XIII

MISCELLANEOUS

Section

- 90. Lodging and authentication of documents
- 91. Oaths and affirmations
- 92. Expenses of administration
- 93. Provisions as to fees
- 94. Saving for certain forfeitures
- 95. Patent Journal
- 96. Regulations

PART XIV

APPLICATION AND TRANSITIONAL PROVISIONS

- 97. Application of Act

CHAPTER 400

PATENTS

An Act to make provision relating to patents for inventions and for other purposes incidental thereto.

[1st April, 1958]

Federal Acts
13 of 1957
12 of 1959
36 of 1960
1 of 1962
Act No.
26 of 1987
Act No.
18 of 1980
Act No.
13 of 1994
Government
Notices
185 of 1964
497 of 1964
Statutory
Instrument
175 of 1965

PART I

PRELIMINARY

1. This Act may be cited as the Patents Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation
Cap. 30

"applicant" includes a person in whose favour a direction has been given under section *twenty-three*, or his legal representative;

"article" includes any substance or material, and any equipment, machinery or apparatus, whether affixed to land or not;

"assignee" means-

(a) the person who has derived his title to the invention for Zambia directly or indirectly from the inventor thereof or from the latter's assignee; or

(b) the legal representative of such person;

"Convention" means the Union Convention of Paris, dated the 20th March, 1883, for the Protection of Industrial Property, revised at

Brussels on the 14th December, 1900, at Washington on the 2nd June, 1911, at The Hague on the 6th November, 1925, and at London on the 2nd June, 1934, and any revision thereof to which the *former Federation of Rhodesia and Nyasaland or the former Protectorate of Northern Rhodesia may have acceded or to which the **Republic may accede in terms of section *seven*;

"convention application" means an application made by a person referred to in paragraph (c) of section *eleven*;

"convention country", in relation to any provision of this Act, means a country (including any colony, protectorate or territory subject to the authority or under the suzerainty of that country, or any territory over which a mandate or trusteeship is exercised) which the Minister has, with a view to the fulfilment of the provisions of the Convention, by statutory notice, declared to be a convention country;

* Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)

** Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

"date of lodging", in relation to any document lodged under this Act, means the date on which the document is lodged or, where it is deemed by virtue of any provision of this Act to have been lodged on any different date, the date on which it is deemed to have been lodged;

"effective date" means, in relation to-

(a) an application which has been ante-dated or post-dated under this Act, the date to which that application has been so ante-dated or post-dated;

(b) an application in a convention country, the date on which the application in respect of the relevant invention was made in the convention country in question or is in terms of the laws of that country deemed to have been so made;

(c) any other application, the date on which that application was lodged at the Patent Office;

"examiner" means an examiner appointed under section *four*;

"exclusive licence" means a licence from a patentee which confers on the licensee, or on the licensee and persons authorised by him, to the exclusion of all other persons (including the patentee), any right in respect of the patented invention, and "exclusive licensee" shall be construed accordingly;

"invention" means any new and useful art (whether producing a physical effect or not), process, machine, manufacture or composition of matter which is not obvious, or any new and useful improvement thereof which is not obvious, capable of being used or applied in trade or industry and

includes an alleged invention;

"inventor" means the person who actually devised the invention and includes the legal representative of an inventor, but does not include a person to whom an invention has been communicated either from within or outside Zambia;

"legal practitioner" means a person admitted or otherwise entitled to practise as a barrister and solicitor in terms of the Legal Practitioners Act;

"legal representative" means-

- (a) the liquidator or receiver of a company;
- (b) the representative recognised by law of any person who has died, become bankrupt, assigned his estate, is an infant or a minor, or of unsound mind, or is otherwise under a disability;

"new", in relation to an invention, means, subject to the provisions of sections *eight, ten* and *forty-six*, that, on or before the effective date of application for a patent in respect thereof, the invention was not-

- (a) known or used anywhere in the former Federation of Rhodesia and Nyasaland or, after the 1st January, 1964, in the former Protectorate of Northern Rhodesia or, after the 24th October, 1964, in the Republic (hereinafter in this definition referred to as "the said territories") by anyone other than the applicant or his agent, or the person or persons from or through whom such applicant has derived his right or title (secret knowledge or secret user otherwise than on a commercial scale being excluded);
- (b) worked anywhere in the said territories otherwise than by way of reasonable technical trial or experiment by the applicant or any person or persons from or through whom such applicant has derived his right or title;
- (c) described in a patent specification available to public inspection in accordance with the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") or this Act and bearing a date less than fifty years prior to such effective date;
- (d) described in writing in any publication of which there was a copy anywhere in the said territories at the effective date of the application, or in a publication printed and published outside the said territories less than fifty years prior to such date;
- (e) claimed in any complete specification for a patent which was lodged in accordance with such legislation or this Act and which, though not available to public inspection at the effective date of the application,

was deposited pursuant to an application for a patent which is, or will be, of prior date to the date of any patent which may be granted in respect of the said invention;

"patent" means letters patent for an invention granted for Zambia under section *twenty-five*;

"patent agent" means a person who is registered as such in terms of subsection (1) of section *sixty-eight*;

"patent of addition" means a patent granted under section *thirty-one*;

"Patent Office" means the Patent Office established under section *three*;

"patented article" means any article in respect of which a patent has been granted and is for the time being in force;

"patentee" means the person for the time being entered on the register as grantee or proprietor of a patent;

"published" means made available to the public and, without prejudice to the generality of the foregoing provision, a document shall be deemed, for the purposes of this Act, to be published if it can be inspected as of right by members of the public, whether upon payment of a fee or otherwise;

"register" means the register of patents kept at the Patent Office under section *six*;

"register of patent agents" means the register of patent agents kept under subsection (1) of section *sixty-eight*;

"Registrar" means the Registrar of Patents appointed under section *four*;

"specification" means a provisional or a complete specification, as the circumstances may require, referred to in section *fourteen*;

(2) A reference in this Act to the date of a patent shall be construed as a reference to the appropriate date specified in subsection (1) of section *twenty-seven*.

(As amended by No. 12 of 1959, G.N. No. 185 of 1964 ,
S.I. No. 175 of 1965 and Act No. 18 of 1980)

PART II

ADMINISTRATION

3. There shall be established under the direction of the Minister an Establishment

office to be called the Patent Office.

of Patent Office

4. There shall be-

Appointment of
officers

(a) a Registrar of Patents who shall exercise the powers and perform the duties assigned to the Registrar by this Act and shall be responsible for its administration;

(b) one or more Deputy Registrars of Patents who shall, subject to the control of the Registrar, have all the powers conferred by this Act upon the Registrar;

(c) such examiners and other officers as may be necessary for carrying out the provisions of this Act.

5. There shall be a seal of the Patent Office, and impressions thereof shall be judicially noticed.

Seal

6. (1) There shall be kept at the Patent Office a register of patents, in which shall be entered-

Register of
patents

(a) particulars of patents in force, of assignments and transmissions of patents and of licences under patents; and

(b) notice of all matters which are required by or under this Act to be entered in the register and of such other matters affecting the validity or proprietorship of patents as the Registrar thinks fit.

(2) All registers of patents established and kept under the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, or the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") shall, under arrangements made by the Registrar with the approval of the Minister, be incorporated with and form part of the register established under subsection (1), so, however, that such arrangements shall in no way be deemed to extend the term and effect of any patent registered in such registers beyond the term and effect provided in respect of such patent by such legislation under which it was granted.

(3) Subject to the provisions of this Act, the register of patents shall, at all convenient times, be open to inspection by the public, and certified

copies, sealed with the seal of the Patent Office, of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.

(4) The register of patents shall be *prima facie* evidence of any matters required or authorised by or under this Act to be entered therein.

(5) No notice of any trust, whether expressed, implied or constructive, shall be entered in the register, and the Registrar shall not be affected by any such notice.

PART III

INTERNATIONAL PROVISIONS

7. If the Republic accedes to the Convention and any revision thereof as a country of the Union for the Protection of Industrial Property constituted thereunder, the *Minister shall, by Gazette notice, declare that Zambia has become such a country with effect from the date stated in such notice. Convention arrangements

*(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

* Republic of Zambia declared to be a country of the Union with effect from 24th October, 1964, by G.N. No. 1751 of 1965.

8. (1) Subject to the provisions of section *eleven*, any person who qualifies under Article 2 or 3 of the Convention and who has applied for protection for an invention in a convention country or his legal representative or assignee (if such assignee is also so qualified) shall be entitled to a patent for his invention under this Act in priority to other applicants if application therefor is made in terms of this Act within twelve months after the effective date of the first application for protection in the first convention country in which he made such application or, where more than one such application for protection has been made, from the effective date of the first such application, and the patent shall have the same date as the effective date of the application in such convention country but the term of the patent shall run from the Convention applications

date on which the complete specification is lodged at the Patent Office:

Provided that-

- (i) nothing in this subsection shall entitle the patentee to recover damages for infringements occurring prior to the date on which his complete specification is advertised as having been accepted in Zambia;
- (ii) no patent granted on a convention application lodged within twelve months after the date stated in terms of section *seven* shall bear a date or be effective from a date prior to the date so stated.

(2) Where, after the lodging of the first application in the first convention country in respect of any invention, a subsequent application is lodged in that country in respect of the same invention, such subsequent application shall be regarded as the first application in that country in respect of that invention, if at the time of the lodging thereof-

(a) the previous application has been withdrawn, abandoned or refused without having been open to public inspection; and

(b) no priority rights have been claimed by virtue of such previous application; and

(c) no rights are outstanding in that convention country in connection with such previous application.

(3) An application which has been withdrawn, abandoned or refused shall not, after the lodging of the subsequent application, be capable of supporting a claim for priority rights under this section.

(4) Where all the rights of each of two or more applicants referred to in subsection (1) who have made application for protection of inventions in any one or more convention countries have become vested in the same person, those applications shall for the purposes of subsection (4) of section *thirteen* be deemed to have been made by the same applicant.

(5) Where an applicant referred to in subsection (1) has applied for protection for any invention by an application which, in accordance with the law of any convention country, is equivalent to an application duly made in that convention country, he shall be deemed for the purposes of this section to have applied in that convention country.

(6) In determining for the purposes of this Act whether an invention described or claimed in a specification lodged in the Patent Office is the same as that for which protection has been applied for in a convention country, regard shall be had to the disclosure contained in the whole of the documents put forward at the same time as and in support of the application in the convention country, being documents of which copies have been lodged at the Patent Office within such time and in such manner as may be prescribed.

(7) A patent granted in Zambia for an invention upon an application made in terms of this section shall not be invalidated by reason only of-

(a) the invention having been known or used or published in Zambia or elsewhere on or after the effective date of the application in the convention country in which application was first made; or

(b) the granting in Zambia after the effective date of the application in the convention country of a patent of another person for the same invention:

Provided that-

(i) the effective date of the patent of such other person shall not be prior to the effective date in Zambia of the convention application; and

(ii) the convention patentee shall be entitled to have the patent of such other person revoked upon due application under and in compliance with the provisions of section *fifty*.

(8) An application for a patent under this section shall be made in the same manner as for an application in terms of section *twelve*, save that the application shall be accompanied by a complete specification.

(9) For the purposes of this Act, matter shall be deemed to have been disclosed in an application for protection in a convention country if it was claimed or disclosed (otherwise than by way of disclaimer or acknowledgment of prior art) in that application or in documents submitted by the applicant for protection in support of and at the same time as that application, but no account shall be taken of any disclosure by any such document unless a copy of the document is lodged at the Patent Office with the convention application or within such period as

may be prescribed after the lodging of that application.

(As amended by No. 36 of 1960
and G.N. No. 185 of 1964)

9. (1) Where a vessel or aircraft registered in a convention country or a land vehicle owned by a person ordinarily resident in such a country comes into Zambia temporarily or accidentally only, the rights conferred by a patent for an invention shall not be deemed to be infringed by the use of the invention- Special provisions as to vessels, aircraft and land vehicles

(a) in the body of the vessel or in the machinery, tackle, apparatus or other accessories thereof, so far as the invention is used on board the vessel and for its actual needs only; or

(b) in the construction or working of the aircraft or land vehicle or of the accessories thereof;

as the case may be.

(2) This section shall not affect the provisions of section *sixteen* of the Aviation Act (which exempts certain aircraft from seizure on patent claims). Cap. 444

(As amended by G.N. No. 185 of 1964)

10. (1) Subject to the provisions of this section, the Minister may, by statutory instrument, make regulations for securing that, where an invention has been communicated in accordance with any agreement or arrangement made by or on behalf of the Government with the government of any country for the supply or mutual exchange of information or articles- Protection of inventions communicated under international agreements

(a) an application for a patent for an invention so communicated made by a person, his legal representative or assignee, entitled under section *eleven* to make such application, shall not be prejudiced, and a patent granted on such an application shall not be invalidated by reason only that the invention has been communicated as aforesaid or that in consequence thereof-

(i) the invention has been published, made, used, exercised or vended; or

(ii) an application for a patent has been made by any other person, or a patent has been granted on such an application;

(b) any application for a patent made in consequence of such a communication as aforesaid by a person who is not entitled so to do under section *eleven* may be refused and any patent granted on such an application may be revoked.

(2) Regulations made under subsection (1) may provide that the publication, making, use, exercise or vending of an invention or the making of any application for a patent in respect thereof shall, in such circumstances and subject to such conditions or exceptions as may be prescribed by the regulations, be presumed to have been in consequence of such a communication as is mentioned in that subsection.

(3) The powers of the Minister under this section, so far as they are exercisable for the benefit of persons from whom inventions have been communicated to the Government by the government of any country, shall only be exercised if and to the extent that the Minister is satisfied that substantially equivalent provision has been or will be made under the law of that country for the benefit of persons whose inventions have been communicated by the Government to the government of that country.

(4) References in subsection (3) to the communication of an invention to or by the Government or the government of any country shall be construed as including references to the communication of the invention by or to any person authorised in that behalf by the government in question.

(As amended by G.N. No. 185 of 1964)

10A. (1) In this section-

ARIPO
Industrial
patents

(a) "ARIPO" means the African Regional Industrial Property Organisation, formerly known as the Industrial Property Organisation for English-Speaking Africa (ESARIPO), which was established, under the former name, by an agreement adopted at Lusaka on 9th December, 1976; and

(b) "ARIPO Protocol" means the Protocol on Patents and Industrial Designs within the Framework of ARIPO, adopted at Harare on 10th

December, 1982.

(2) Where a patent has been granted by ARIPO under section 3 (7) of the ARIPO Protocol and the Registrar has not objected, under section 3 (6) of the Protocol, to the patent having effect in Zambia, the patent shall for all purposes be deemed to have been granted under this Act.

(3) A patent shall not be deemed to have been granted under this section if, under section 3 (6) of the ARIPO Protocol, the Registrar objects to its having effect in Zambia.

(As amended by Act No. 26 of 1987)

PART IV

APPLICATIONS GENERALLY

11. Application for a patent for an invention may be made by any of the following persons, that is to say:

Persons entitled
to make
application

(a) a person claiming to be the inventor of the invention who owns the invention in respect of Zambia;

(b) an assignee;

(c) a person entitled under subsection (1) of section *eight*;

(d) the legal representative of any person who immediately before his death or disability was entitled to make such application;

and may be made by any above-mentioned person either alone or jointly with any other person.

(As amended by G.N. No. 185 of 1964)

12. (1) Every application for a patent shall-

Form of
application

(a) be made in the prescribed form, which must be signed by the applicant or by a person authorised to sign on his behalf;

(b) be lodged at the Patent Office in the prescribed manner;

(c) state an address for service in Zambia to which all notices and communications may be sent; and

(d) in so far as they are not already stated for the purposes of paragraph (c), state the full postal, residential and business addresses of the applicant.

(2) An assignee or legal representative making or joining in an application shall furnish such proof of title or authority as the Registrar may require or as may be prescribed.

(3) Every application form shall-

(a) state that the applicant owns the invention in respect of Zambia;

(b) give the full name of the inventor; and

(c) where the inventor is not the applicant or one of the applicants, contain a declaration that the applicant believes him to be the inventor.

(4) Every convention application, in addition to the requirements set out in subsection (3), shall state-

(a) the convention country in which such application for protection was made;

(b) its number;

(c) the effective date of such application; and

(d) the respect in which the applicant in the convention country and in Zambia qualifies under Article 2 or 3 of the Convention.

(As amended by G.N. No. 185 of 1964)

13. (1) Every application for a patent, other than a convention application, shall be accompanied by either a complete specification or a provisional specification and every convention application shall be accompanied by a complete specification.

Complete and
provisional
specifications

(2) If a complete specification does not accompany an application, it shall be lodged within twelve months after the date of lodging of the application or within such further period, not exceeding three months, as the Registrar may in writing allow upon payment of the prescribed fee, and if the provisions of this subsection are not complied with the application shall lapse.

(3) Where two or more applications accompanied by provisional specifications have been lodged in respect of inventions which are cognate or of which one is a modification of another, a single complete specification may, subject to the provisions of this section and section *fourteen*, be lodged in pursuance of those applications, or, if more than one complete specification has been lodged, may with the leave of the Registrar be proceeded with in respect of those applications.

(4) Where applications for protection have been made in one or more convention countries in respect of two or more inventions which are cognate or of which one is a modification of another, a single convention application may, subject to the provisions of sections *eleven* and *fourteen*, be made in respect of those inventions at any time within twelve months from the effective date of the earliest of the said applications for protection.

(5) In considering the validity of applications made in terms of subsection (3) or (4) and in determining other relevant matters under this Act, the Registrar shall have regard to the effective dates of the applications or the convention applications concerned relating to the several matters claimed in the specification, and the requirements of subsection (4) of section *twelve* shall, in the case of any such application, apply separately to the applications for protection in respect of each of the said inventions.

(6) Where an application for a patent, not being a convention application, is accompanied by a specification purporting to be a complete specification, the Registrar may, if the applicant so requests at any time before the acceptance of the specification, direct that it shall be treated for the purposes of this Act as a provisional specification and proceed with the application accordingly.

(7) Where a complete specification has been lodged in pursuance of an application for a patent accompanied by a provisional specification or by a specification treated by virtue of a direction under subsection (6) as a provisional specification, the Registrar may, if the applicant so requests at any time before the acceptance of the complete specification, cancel the provisional specification and post-date the application to the date of lodging of the complete specification.

14. (1) Every specification shall indicate whether it is a provisional or a complete specification and shall commence with a title sufficiently indicating the subject to which the relevant invention relates. Contents of specification

(2) A provisional specification shall fairly describe the invention.

(3) A complete specification shall-

(a) fully describe the invention and the manner in which it is to be performed;

(b) disclose the best method of performing the invention known to the applicant at the time when the specification is lodged at the Patent Office; and

(c) end with a claim or claims defining the subject-matter for which protection is claimed.

(4) The claim or claims of a complete specification must relate to a single invention, must be clear and succinct, and must be fairly based on the matter disclosed in the specification.

(5) Every specification shall be accompanied by drawings if required by the Registrar, and such drawings shall be deemed to be part of the specification, but if drawings which accompanied a provisional specification are sufficient for the purpose of a complete specification, it shall suffice if that complete specification refers to such drawings.

(6) Subject to the foregoing provisions of this section, a complete specification lodged at the Patent Office after a provisional

specification, or with a convention application, may include claims in respect of developments of or additions to the invention which was described in the provisional specification or, as the case may be, in respect of which application for protection was made in a convention country, being developments of or additions in respect of which the applicant would be entitled to make a separate application for a patent:

Provided that an application shall, in so far as the complete specification contains claims in respect of any such developments or additions, be deemed to have been made on the date on which the complete specification was lodged at the Patent Office.

(7) Where a complete specification claims a new substance, the claim shall be construed as not extending to that substance when found in nature.

15. (1) Every claim of a complete specification shall have effect from the date prescribed by this section in relation to that claim and a patent shall not be invalidated by reason only of the publication or use of the invention, so far as claimed in any claim of the complete specification, on or after the effective date of that claim, or by the grant of another patent upon a specification claiming the same invention in a claim of the same or later effective date.

Effective date
of claims of
complete
specification

(2) Where the complete specification is lodged in pursuance of a single application preceded by a provisional specification or by a specification which is treated by virtue of a direction under subsection (6) of section *thirteen* as a provisional specification, and the claim is fairly based on the matter disclosed in that specification, the effective date of that claim shall be the effective date of the application.

(3) Where the complete specification is lodged or proceeded with in pursuance of two or more applications accompanied by such specifications as are mentioned in subsection (2), and the claim is fairly based on the matter disclosed in one of those specifications, the effective date of that claim shall be the effective date of the application accompanied by that specification.

(4) Where the complete specification is lodged in pursuance of a convention application and the claim is fairly based on the matter

disclosed in the application for protection in a convention country or, where the convention application is founded upon more than one such application for protection, in one of those applications, the effective date of that claim shall be the effective date of the relevant application for protection.

(5) Where, under the foregoing provisions of this section, any claim of a complete specification would, but for this provision, have two or more effective dates, the effective date of that claim shall be the earlier or earliest of those dates.

(6) In any case to which subsection (2), (3), (4) or (5) does not apply, the effective date of a claim shall be the date of lodging of the complete specification in Zambia.

(As amended by G.N. No. 185 of 1964)

16. (1) The Registrar shall examine every application for a patent and every specification accompanying such application or lodged at the Patent Office in pursuance of such application, in order to ascertain-	Examination of applications and specifications
---	--

(a) whether such application or specification complies with the requirements of this Act;

(b) in the case of a complete specification lodged after a provisional specification, or of a convention application, whether the invention claimed is substantially the same as that disclosed in the provisional specification or in the application lodged in the convention country, as the case may be.

(2) Any examination or investigation required in terms of subsection (1) may, on the direction of the Registrar, be undertaken by an examiner who shall report his findings on any such examination or investigation to the Registrar.

(3) An examination or investigation required by the provisions of this Act shall not be deemed to warrant the validity of any patent, and no liability shall be incurred by the Government, the Minister, the Registrar or any officer of the Patent Office by reason of or in connection with any such examination or investigation or report or other proceeding consequent thereon.

(As amended by G.N. No. 185 of 1964)

17. (1) At any time after an application has been lodged under this Act and before acceptance of the complete specification, the Registrar may, at the request of the applicant and upon payment of the prescribed fee, direct that the application shall be post-dated to such date as may be specified in the request:

Ante-dating and
post-dating of
applications

Provided that-

- (i) no application shall be post-dated under this subsection to a date later than six months from the date on which it was actually lodged or would, but for this subsection, be deemed to have been so lodged; and
- (ii) a convention application shall not be post-dated under this subsection to a date later than the last date on which, under the provisions of this Act, the application could have been made.

(2) Where an application or specification lodged under this Act is amended before acceptance of the complete specification, the Registrar may direct that the application or specification shall be post-dated to the date on which it is amended or, if it has been returned to the applicant, to the date on which it is again lodged under this Act.

(3) Where, at any time after an application or specification has been lodged at the Patent Office and before acceptance of the complete specification, a fresh application or specification is lodged in respect of any part of the subject-matter of the first-mentioned application or specification, the Registrar may direct that the fresh application or specification shall be antedated to a date not earlier than the date of lodging of the first-mentioned application or specification.

(4) An appeal shall lie from any decision of the Registrar under subsection (2) or (3).

18. (1) If it appears to the Registrar in the case of any application for a patent-

Refusal of
application in
certain cases

- (a) that it is frivolous on the ground that it claims as an invention anything obviously contrary to well-established natural laws; or

(b) that the use of the invention in respect of which the application is made would be contrary to law or morality; or

(c) that it claims as an invention a substance capable of being used as food or medicine which is a mixture of known ingredients possessing only the aggregate of the known properties of the ingredients, or that it claims as an invention a process producing such a substance by mere admixture;

he may refuse the application.

(2) If it appears to the Registrar that any invention in respect of which an application for a patent is made might be used in any manner contrary to law, he may refuse the application unless the specification is amended by the insertion of such disclaimer in respect of that use of the invention, or such other reference to the illegality thereof, as the Registrar thinks fit.

(3) An appeal shall lie from any decision of the Registrar under this section.

19. (1) If, in the case of a complete specification lodged in pursuance of an application for a patent, which application was accompanied by a provisional specification, the result of any examination or investigation made in terms of section *sixteen* is adverse to the applicant in regard to any matter referred to in that section, or it is found that the invention described in the complete specification is not substantially the same as that described in the provisional specification or that the complete specification includes an invention not included in the provisional specification, the Registrar may, subject to the provisions of subsection (6) of section *fourteen*-

Powers of Registrar if specification or application defective

(a) refuse to accept the complete specification until it has been amended to his satisfaction;

(b) with the consent of the applicant, cancel the provisional specification and direct that the application be post-dated to the date upon which the complete specification was lodged at the Patent Office; or

(c) where the complete specification includes an invention not

included in the provisional specification, allow the application to be proceeded with in so far as the invention included both in the provisional and in the complete specification is concerned and allow an application for the additional invention included in the complete specification to be made and authorise the application for such additional invention, if lodged at the Patent Office within such period as he may determine, to be dated with the date on which the complete specification was lodged at the Patent Office.

(2) If the case of a convention application it is found that the invention claimed is not substantially the same as that claimed in the application made in the convention country in question, the Registrar may, subject to the provisions of subsection (6) of section *fourteen*-

(a) refuse to accept the application until it has been amended to his satisfaction; or

(b) with the consent of the applicant, treat the application as an application in terms of section *twelve*.

(3) If in the case of a convention application it is found that the specification lodged in Zambia includes an invention not included in the specification lodged in the convention country, the Registrar may allow the application to be proceeded with in so far as the invention included in both the convention and the Zambian specification is concerned, and allow an application for the additional invention to be made and authorise such application, if lodged at the Patent Office within the period he may determine, to be dated with the date on which the Zambian specification was lodged at the Patent Office.

(4) An appeal shall lie from any decision of the Registrar under this section.

(As amended by G.N. No. 185 of 1964)

20. (1) If a complete specification is not accepted within thirty months from the date of lodging of an application, the application shall lapse unless-

Lapsing of applications

(a) an appeal has been lodged in respect of the application;

(b) the time within which such appeal may be lodged has not expired; or

(c) the delay in accepting the specification was not due to any neglect or default on the part of the applicant:

Provided that where an application is made for an extension of time for the acceptance of a complete specification, the Registrar shall, on payment of the prescribed fee, grant an extension of time to the extent applied for, but not exceeding three months.

(2) If, at the expiration of the period allowed under the provisions of subsection (1), an appeal to the High Court is pending under any of the provisions of this Act in respect of the application (or, in the case of an application for a patent of addition, either in respect of that application or in respect of the application for the patent for the main invention) or the time within which such an appeal could be brought in accordance with the provisions of Part XI, apart from any future extension of time thereunder, has expired, then-

(a) where such an appeal is pending, or is brought within the time aforesaid or before the expiration of any extension of that time granted, in the case of the first extension, on an application made within that time or, in the case of a subsequent extension on an application made before the expiration of the last previous extension, the said period shall be extended until such date as the High Court determine;

(b) where no such appeal is pending or is so brought, the said period shall continue until the end of the time aforesaid, or, if any extension of that time is granted as aforesaid, until the expiration of the extension or the last extension so granted.

*(As amended by No. 12 of 1959, S.I. No. 175 of 1965
and Act No. 18 of 1980)*

21. (1) Subject to the provisions of section *twenty*, the complete specification may be accepted by the Registrar at any time after the applicant has complied with the requirements imposed upon him by this Act:

Acceptance and
publication of
complete
specification

Provided that the applicant may give notice to the Registrar requesting him to postpone acceptance until such date, not being later than eighteen months from the date of lodging of the application, as may be specified in the notice and the Registrar may postpone acceptance accordingly.

(2) On the acceptance of a complete specification, the Registrar shall give notice to the applicant who shall, within the prescribed period or within such further period as the Registrar may allow, advertise in the prescribed manner the fact that the specification has been accepted and, unless the acceptance of the specification is so advertised, the application shall lapse.

(3) Upon advertisement under the provisions of subsection (2), the application form, the specification and other documents essential to obtain acceptance lodged in pursuance thereof shall be open to public inspection.

(4) After the date of the publication as prescribed in subsection (2) of notice of acceptance of a complete specification and until the sealing of a patent in respect thereof, the applicant shall have the like privileges and rights as if a patent for the invention had been sealed on the date of the publication of such notice.

22. (1) Any person interested, including the State, may, within three months from the date of the advertisement of the acceptance of a complete specification or within such further period as the Registrar, on application made to him within the said period of three months, may allow, or, with the consent of the applicant, at any time before the sealing of the patent, oppose the grant of a patent in accordance with the provisions of this section by giving written notice to the Registrar of opposition to such grant on any of the following grounds and no others, namely:

Opposition to
grant of patent

(a) that the applicant is not a person entitled under section *eleven* to make the application;

(b) that the application is in fraud of the rights of the person giving such notice or of any persons under or through whom he claims;

(c) that the invention does not relate to an art (whether producing a

physical effect or not), process, machine, manufacture or composition of matter, which is capable of being applied in trade or industry;

(d) subject to the provisions of section *thirty-one*, that the invention is obvious in that it involves no inventive step having regard to what was common knowledge in the art at the effective date of the application;

(e) that the invention is not useful;

(f) that the complete specification does not fully describe and ascertain the invention and the manner in which it is to be performed;

(g) that the claims of the complete specification do not sufficiently and clearly define the subject-matter for which protection is claimed;

(h) that the complete specification does not disclose the best method of performing the invention known to the applicant at the time when the specification was lodged at the Patent Office;

(i) that the application contains a material misrepresentation;

(j) that the invention described or claimed in the complete specification is not the same as that described in the provisional specification, and-

(i) in so far as it is not described in the provisional specification, was not new at the date when the complete specification was lodged at the Patent Office; or

(ii) forms the subject of a pending application made in Zambia for a patent the effective date of which is prior to the date on which the complete specification was lodged at the Patent Office;

(k) in the case of a convention application, that the specification describes or claims an invention other than that for which protection has been applied for in the convention country and that such other invention either-

(i) forms the subject of an application for a patent in Zambia which, if granted, would bear a date in the interval between the lodging of the application in the convention country and the effective date of the application in Zambia; or

(ii) is not an invention as defined in this Act;

(l) that the invention was not new at the effective date of the application;

(m) that the specification includes claims which, in terms of subsection (1) of section *eighteen*, should have been refused.

(2) A copy of any notice given under subsection (1), and of any statement which in terms of subsection (3) accompanies such notice, shall be served by the objector on the applicant for the patent.

(3) Any notice of opposition given under subsection (1) shall state the grounds on which the objector intends to oppose the grant of the patent, and shall be accompanied by a statement setting out particulars of the facts alleged in support of the said grounds, and proof of service on the applicant concerned of a copy of such notice and of such statement shall be furnished to the Registrar.

(4) If the applicant wishes to contest the opposition, he shall, within such time as is prescribed, or such further time as the Registrar may allow, lodge at the Patent Office a counter-statement setting out particulars of the grounds upon which the opposition is to be contested.

(5) A copy of any such counter-statement lodged at the Patent Office shall be served by the applicant on the objector concerned.

(6) Particulars delivered may from time to time be amended by leave of the Registrar.

(7) No evidence shall be admitted in proof of any ground on which particulars have not been delivered as aforesaid, except by leave of the High Court.

(8) When, in relation to any opposition, the foregoing provisions of this section have been complied with to the extent therein required, the Registrar shall hand all relevant papers to the registrar of the High Court who shall arrange for the matter to be heard by that Court in the manner prescribed and the Patents Tribunal may make such order therein as it deems just.

(9) Upon being notified of the order of the High Court by the registrar thereof, the Registrar shall take such further action therein as may be necessary.

(As amended by G.N. No. 185 of 1964, S.I. No. 175 of 1965 and Act No 18 of 1980)

23. (1) If the Registrar is satisfied, on a claim made in the prescribed manner at any time before a patent has been granted, that by virtue of any assignment or agreement made by the applicant or one of the applicants for a patent, or by operation of law, the claimant would, if the patent were then granted, be entitled thereto or to the interest of an applicant therein, or to an undivided share of the patent or of that interest, the Registrar may, subject to the provisions of this section, direct that the application shall proceed in the name of the claimant or in the names of the claimant and the applicant or the other joint applicant or applicants, as the case may require.

Substitution of applicants

(2) No such direction as aforesaid shall be given by virtue of any assignment or agreement made by one of two or more joint applicants for a patent except with the consent of the other joint applicant or applicants.

(3) No such direction as aforesaid shall be given by virtue of any assignment or agreement for the assignment of the right to an invention unless-

(a) the invention is identified therein by reference to the number of the application for the patent;

(b) there is produced to the Registrar an acknowledgement by the person by whom the assignment or agreement was made that the assignment or agreement relates to the invention in respect of which that application is made; or

(c) the rights of the claimant in respect of the invention have been finally established by a decision of the High Court or any court to which an appeal against such a decision has been brought.

(4) Where one of two or more joint applicants for a patent has died at any time before the patent has been granted, the Registrar, if satisfied of

such decease, may alter the application by substituting the legal representative of such deceased applicant and shall thereafter seal the application in the names of the surviving applicants and of such legal representative unless, upon a request in that behalf made by the survivor or survivors, and with the consent of such legal representative, the Registrar directs that the application shall proceed and be sealed in the name of the survivor or survivors alone.

(5) If any dispute arises between joint applicants for a patent whether or in what manner the application should be proceeded with, the Registrar may, upon application made to him in the prescribed manner by any of the parties, and after giving to all parties concerned an opportunity to be heard, give such directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties alone or for regulating the manner in which it shall be proceeded with, or for both those purposes, as the case may require.

(6) An appeal shall lie from any decision of the Registrar under this section.

(As amended by Act No. 18 of 1980)

24. (1) In this section the expression "competent authority" means the Minister designated as a competent authority by the President in the *Gazette*.

Provisions for
secrecy of
certain
inventions

(2) Where, before or after the commencement of this Act, an application for a patent has been made in respect of an invention, and it appears to the Registrar that the invention is one of a class notified to him by a competent authority as relevant for defence purposes, he may give directions for prohibiting or restricting the publication of information with respect to the invention, or the communication of such information to any person or class of persons specified in the directions, and while such directions are in force the application may, subject to the directions, proceed up to the acceptance of the complete specification, but the acceptance shall not be advertised nor the specification published, and no patent shall be granted in pursuance of the application.

(3) Where the Registrar gives any such directions as aforesaid, he shall give notice of the application and of the directions to the competent

authority, and thereupon the following provisions shall have effect, that is to say:

(a) the competent authority shall, upon receipt of such notice, consider whether the publication of the invention would be prejudicial to the defence of the Republic and unless a notice under paragraph (c) has previously been given by that authority to the Registrar, shall reconsider that question before the expiration of nine months from the date of lodging of the application for the patent and at least once in every subsequent year;

(b) for the purpose aforesaid, the competent authority may, at any time after the complete specification has been accepted or, with the consent of the applicant, at any time before the complete specification has been accepted, inspect the application and any documents furnished to the Registrar in connection therewith;

(c) if upon consideration of the invention at any time it appears to the competent authority that the publication of the invention would not, or would no longer, be prejudicial to the defence of the Republic, that authority shall give notice to the Registrar to that effect;

(d) on the receipt of any such notice the Registrar shall revoke the directions and may, subject to such conditions, if any, as he thinks fit, extend the time for doing anything required or authorised to be done by or under this Act in connection with the application, whether or not that time has previously expired.

(4) When directions have been given under this section, if any use of the invention is made during the continuance in force of such directions by or on behalf of or to the order of a Government department, the provisions of section *forty* shall apply in relation to that use as if a patent had been granted for the invention.

(5) If an applicant for a patent has suffered loss or damage by reason of his invention having been kept secret in pursuance of a direction under subsection (2), the Minister, with the consent of the Minister responsible for finance, shall pay to him such reasonable compensation as is agreed upon, or, in default of agreement, as may be determined by the High Court on a reference under subsection (1) of section *forty-two*.

(6) Where a patent is granted in pursuance of an application in respect

of which directions have been given under this section, no renewal fees shall be payable in respect of any period during which those directions were in force.

(7) If any person fails to comply with any direction given under this section, he shall be guilty of an offence.

(As amended by G.N. No. 185 of 1964, S.I. No. 175 of 1965 and Act No 18 of 1980)

PART V

GRANT, EFFECT AND TERM OF PATENT

25. (1) If the conditions precedent to the grant of a patent, as prescribed in this Act, have been complied with and there is no opposition to such grant or, in the event of such opposition, the final determination is in favour of the grant of a patent, a patent shall be granted to the applicant, or, in the case of an application by two or more persons jointly, to the applicants jointly, and the Registrar shall cause the patent to be sealed with the seal of the Patent Office:

Grant and
sealing of
patent

Provided that-

(i) where an applicant under a joint application has died, the patent may, with the consent of his heir or legal representative, be granted to the survivors of the joint applicants;

(ii) where an applicant has agreed in writing to assign the invention or a share in the invention or, in the case of an application by two or more persons jointly, his interest in the invention, to another person, the patent may, upon proof of the agreement to the satisfaction of the Registrar, be granted to and in the name of the assignee either solely or jointly with the applicant or, in the case of an application by two or more persons jointly, to and in the name of the assignee jointly with the other applicants or their assignees.

(2) A patent shall be sealed as soon as may be, but not later than twenty-two months after the date of lodging of the application therefor:

Provided that-

- (i) where the Registrar or the High Court has allowed an extension of the time within which a complete specification may be lodged or accepted, a corresponding extension of the time for the sealing of the relevant patent shall be allowed;
- (ii) where the sealing is delayed by an appeal or by opposition to the grant of the patent, the patent may be sealed at such time as the Registrar may determine;
- (iii) where the patent is to be granted to the heir or legal representative of an applicant who has died before the expiration of the time which would otherwise be allowed for sealing the patent, the patent may be sealed at such later time as the Registrar may decide;
- (iv) the Registrar may, on payment of the prescribed fee, extend the period of twenty-two months for such further time as may be prescribed;
- (v) where it is proved to the satisfaction of the Registrar that hardship would arise in connection with the prosecution of the corresponding application for a patent in any country outside Zambia unless the period for the sealing of such patent is extended, that period may be extended from time to time by the Registrar to such periods as appear to him to be necessary in order to prevent the hardship arising, if an application in that behalf is made to him and the prescribed fee is paid within the first-mentioned period or, in the case of a subsequent application under this paragraph, within the period to which such first-mentioned period was extended on the last preceding application.

*(As amended by G.N. No. 185 of 1964
and Act No 18 of 1980)*

26. Where, at any time after a patent has been sealed in pursuance of an application under this Act, the Registrar is satisfied that the person to whom the patent was granted had died, or, in the case of a body corporate, had ceased to exist, before the patent was sealed, he may amend the patent by substituting for the name of that person the name of the person entitled thereto according to law, and the patent shall have effect, and shall be deemed always to have had effect, accordingly.

Amendment of
patent granted
to deceased
applicant

27. (1) Subject to the provisions of this Act, the date of a patent shall be-

Date of patent

(a) in the case of a patent granted under this Act, the effective date of the application therefor;

(b) in the case of a patent granted under the Patents (Southern

Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, the date the patent was sealed;

(c) in the case of a patent registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, the date of the patent in the United Kingdom;

(d) in the case of a patent granted under the *Patents (Transitional Provisions) Act, 1958, the date specified in paragraph (b) or (c), as the case may be.

**Repealed by Act No. 15 of 1965*

(2) The date of a patent referred to in paragraph (a) or (d) of subsection (1) shall be entered in the register.

(3) The date of a patent referred to in paragraph (a) or (d) of subsection (1) shall be inserted in the patent.

(No. 12 of 1959 as amended by G.N. No. 185 of 1964 and S.I. No. 175 of 1965)

28. (1) Subject to the provisions of this Act, a patent shall have the same effect against the State as it has against a subject.

Extent, effect
and form of
patent

(2) A patent shall be in such form as may be prescribed.

(3) A patent shall be granted for one invention only, but it shall not be competent for any person in an action or other proceeding to take any objection to a patent on the ground that it has been granted for more than one invention.

(4) The effect of a patent shall be to grant to the patentee, subject to the provisions of this Act and the conditions of the patent, full power, sole privilege and authority by himself, his agents and licensees during the term of the patent to make, use, exercise and vend the invention within Zambia in such a manner as to him seems meet, so that he shall have and enjoy the whole profit and advantage accruing by reason of the invention during the term of the patent.

(As amended by G.N. No. 185 of 1964)

and S.I. No. 175 of 1965)

*Repealed by Act No. 15 of 1965.

29. The term of every patent shall, subject to the provisions of this Act, Term of patent
be-

- (a) in the case of a patent granted under this Act, sixteen years from the date of lodging of the complete specification at the Patent Office;
- (b) in the case of a patent granted under the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, fourteen years from the date the patent was sealed;
- (c) in the case of a patent registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, the term of the relevant United Kingdom patent;
- (d) in the case of a patent granted under the Patents (Transitional Provisions) Act, 1958, the period specified in paragraph (b) or (c), as the case may be.

*(No. 12 of 1959 as amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

30. (1) A patentee or an exclusive licensee may, after advertising in the prescribed manner, apply to the Registrar for an extension of the term of the relevant patent on any one or more of the following grounds, namely:

Extension of
patent

- (a) that he has not derived adequate remuneration from that patent;
- (b) that by reason of hostilities between the Republic or any country of the Commonwealth and any foreign state, he has suffered loss or damage including-
 - (i) loss or damage arising out of action taken in pursuance of an official request to keep secret the specification of the invention to which the patent relates; and
 - (ii) loss of opportunity for dealing in or developing the invention on account of-

A. the fact that he or his employees were engaged in work of national importance; or

B. lack of supplies or loss of markets as a result of such hostilities, wherever such lack or loss occurs.

(2) Any such application may be made-

(a) in the case of an application under paragraph (a) of subsection (1), not more than twelve and not less than six months before the date of expiration of the term of the patent in question or at such later time, being not later than the date of expiration of the patent, as the Registrar may allow; and

(b) in the case of an application under paragraph (b) of subsection (1), at any time before the date of expiration of the patent or within two years after the date on which hostilities ceased, whichever is the later date.

(3) Any person may within the prescribed time give written notice to the Registrar and the applicant of objection to any such extension, and the Registrar shall fix a date for the hearing of the application and shall advise the applicant and any objector of the date so fixed.

(4) The Registrar may, after hearing the applicant and any person who may have objected to the extension, refuse the application or order the extension of the term of the patent in question for such period and subject to such conditions as it may deem fit or, if the patent has already lapsed, order the issue of a new patent for such a period and subject to such conditions:

Provided that no such extension shall be granted-

(i) on the grounds mentioned in paragraph (a) of subsection (1) for a term exceeding five years or, in what the Registrar may deem to be exceptional circumstances, ten years; or

(ii) on the grounds mentioned in paragraph (b) of subsection (1), for a term exceeding the period of hostilities.

(5) The provisions of section *thirty-four* shall *mutatis mutandis* apply in respect of any extension of the term of a patent granted as a result of an application under paragraph (b) of subsection (1):

Provided that in the application of those provisions the reference in that section to a period of three months from the date on which any renewal

fee referred to therein was due shall be construed as a reference to the date on which any patent whereof the term is extended under this section lapsed by effluxion of time.

(6) An extension of the term of a patent under this section shall be endorsed on the relevant patent by the Registrar and recorded in the register.

(7) Except where the Registrar otherwise decides, an application based on the grounds specified in paragraph (b) of subsection (1) shall not be considered if the patentee or exclusive licensee is a subject of such foreign state as is referred to in that paragraph or is a company the business whereof is managed or controlled by such subjects or is carried on wholly or mainly for the benefit or on behalf of such subjects, notwithstanding that the company may be registered in accordance with the provisions of the Companies Act. Cap. 388

(8) An appeal shall lie from any decision of the Registrar under this Section.

(As amended by G.N. No. 185 of 1964; S.I. No. 175 of 1965 and Act No. 18 of 1980)

31. (1) Subject to the provisions of this section, where an application for a patent is pending or has been granted thereon for an invention (hereinafter referred to as the main invention) and the applicant or patentee applies for a further patent in respect of any improvement in or modification of the main invention, the Registrar may, if the applicant so requests, grant a patent for the improvement or modification as a patent of addition. Patents of addition

(2) Subject to the provisions of this section, where an invention, being an improvement in or modification of another invention, is the subject of an independent patent and the patentee in respect of that patent is also the patentee in respect of the patent for the main invention, the Registrar may, if the patentee so requests, by order revoke the patent for the improvement or modification and grant to the patentee a patent of addition in respect thereof, bearing the same date as the date of the patent so revoked.

(3) A patent shall not be granted as a patent of addition unless the date

of lodging of the complete specification was the same as or later than the date of lodging of the complete specification in respect of the main invention.

(4) A patent of addition shall not be sealed before the sealing of the patent for the main invention, and if the period within which, but for this provision, the sealing of a patent of addition could be made under section *twenty-five* expires before the period within which the sealing of the patent for the main invention may be so made, the sealing of the patent of addition may be made at any time within the last-mentioned period.

(5) A patent of addition shall remain in force for as long as the patent for the main invention shall remain in force, including any extension of the term thereof but no longer, and no fees shall be payable for renewal of a patent of addition:

Provided that, where the patent for the main invention is revoked, the Registrar or the High Court, as the case may be, may order that the patent of addition shall become an independent patent, and the fees payable in respect of such independent patent and the times for the payment thereof shall be determined according to the date of the former patent of addition, but the normal term of the independent patent shall not extend beyond the date on which the patent for the main invention would have expired if it had not been revoked.

(6) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for such a patent, and shall not be refused, nor shall any such patent be liable to be revoked or invalidated, on the ground only that the invention claimed in the complete specification does not involve any inventive step having regard to the main invention, so, however, that the provisions of this subsection shall not apply to an independent patent referred to in the proviso to subsection (5).

(7) A patent for a main invention and its patent of addition shall not be capable of assignment apart from one another.

(8) An appeal shall lie from any decision of the Registrar under this section.

(As amended by Act No. 18 of 1980)

32. (1) Subject to the provisions of this section, every patent, including a patent granted or registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, or the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws, or the Patents (Transitional Provisions) Act, 1958, shall lapse if the fees prescribed for its renewal are not paid within the prescribed times.

Renewal of
patents

(2) The Registrar may, upon application of the patentee and subject to the payment of such additional fees as may be prescribed, extend the time for payment of a fee referred to in subsection (1) for a period not exceeding six months.

*(No. 12 of 1959 as amended by No. 36 of 1960,
G.N. No. 185 of 1964 and S.I. No. 175 of 1965)*

33. (1) Where a patent has lapsed owing to the failure of the patentee to pay any prescribed fee within the prescribed time, the patentee may in the prescribed manner apply to the Registrar for the restoration of the patent.

Restoration of
lapsed patents

(2) If the Registrar is satisfied that such failure was unintentional, and that no undue delay has occurred in making the application, he shall direct the patentee to advertise the application in the prescribed manner, and thereupon any person may within such time as may be prescribed give notice in the prescribed manner of opposition to the restoration of the patent.

(3) If there is no opposition to such restoration, the Registrar shall, on payment of the unpaid renewal fees, make an order restoring the patent.

(4) Where notice of opposition is given, the Registrar shall notify the applicant thereof and shall, after the expiration of the prescribed period and after hearing the applicant and the objector, decide the matter and make an order either restoring the patent, subject to the provisions of section *thirty-four*, or dismissing the application.

(5) An appeal shall lie from any decision of the Registrar under this section.

34. In every order restoring a lapsed patent made under section *thirty-three*, there shall be inserted for the protection of persons who may have availed themselves of the subject-matter of the patent after a lapse of a period of three months from the date on which the renewal fee was due, the following provisions, namely, that the patentee shall not commence or prosecute any action or other proceedings or recover damages:

Protective provisions to be inserted in order for restoration of patent

(a) in respect of any infringement of the patent which has taken place after the lapse of the said period and before the date of the order;

(b) in respect of any use of the subject-matter of the patent at any time after the date of the order by the employment of any means or composition of matter actually made within or imported into Zambia, or in respect of any process put into operation in Zambia in infringement of the patent after the lapse of the said period and before the date of the order, or in respect of the sale, purchase or use of any article which is the product of the use of the said means, composition of matter or process:

Provided that the employment of the said means, composition of matter or process shall be limited to the person by or for whom the said means, composition of matter or process was so made, imported or put into operation, his legal representative, his successors or assigns, or his vendees, as the case may be;

(c) in respect of the employment at any time after the date of the order of any further means, composition of matter or process, being a reproduction or improvement of the means, composition of matter or process referred to in paragraph (b) or in respect of the sale, purchase or use of any article which is the product of the said further means, composition of matter or process:

Provided that the employment of the said further means, composition of matter or process shall be limited to a person entitled to use as aforesaid the means, composition of matter or process specified in that paragraph.

(As amended by G.N. No. 185 of 1964)

35. (1) At any time after the sealing of a patent the patentee may apply to the Registrar for the patent to be endorsed with the words "licences of right" and where such an application is made, the Registrar shall notify the application to any person entered on the register as entitled to an interest in the patent and if satisfied, after giving any such person an opportunity to be heard, that the patentee is not precluded by contract from granting licences under the patent, cause the patent to be endorsed accordingly, so, however, that no such endorsement shall be made in

Endorsement of patent "licences of right"

respect of an exclusive licence.

(2) Where a patent is endorsed under this section-

(a) any person shall, at any time thereafter, be entitled as of right to a licence under the patent upon such terms as may, in default of agreement and subject to the provisions of subsection (3), be settled by the Registrar on the application of the patentee or the person requiring the licence;

(b) the Registrar may, on the application of the holder of any licence granted under the patent before the endorsement, order the licence to be exchanged for a licence to be granted by virtue of the endorsement upon terms to be settled as aforesaid;

(c) if in proceedings for infringement of the patent, otherwise than by the importation of goods, the defendant undertakes to take a licence upon terms to be settled by the Registrar as aforesaid, no interdict or injunction shall be granted against him, and the amount, if any, recoverable against him by way of damages shall not exceed double the amount which would have been payable by him as licensee if such a licence had been granted before the earliest infringement;

(d) the renewal fees payable in respect of the patent after the date of the endorsement shall be one-half of the renewal fees which would be payable if the patent were not so endorsed.

(3) In settling the terms of the licence for the purposes of paragraph (a) or (b) of subsection (2), the Registrar shall-

(a) take cognizance of the provisions of section *thirty-eight* with respect to a patent falling under that section; and

(b) provide, *inter alia*, for the following matters:

(i) the period of the licence;

(ii) the terms of renewal, if any;

(iii) the amount of and method for payment of royalties;

(iv) arrangements for cancellation of the licence upon application made to him by the patentee after failure by the licensee to pay royalties or to observe any other conditions included in the licence by the

Registrar, who is hereby authorised to include such conditions, so, however, that no such licence may be cancelled unless the licensee, after reasonable notice given to him by the patentee, has failed to observe such conditions.

(4) The licensee under any licence granted by virtue of the endorsement of a patent under this section shall, unless in the case of a licence the terms of which are settled by agreement the licence otherwise expressly provides, be entitled to call upon the patentee to take proceedings to prevent any infringement of the patent, and if the patentee refuses or neglects to do so within two months after being so called upon, the licensee may institute proceedings for the infringement in his own name as if he were patentee, making the patentee a defendant:

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(5) An application for the endorsement of a patent under this section shall contain a statement, to be verified in such manner as may be prescribed, that the patentee is not precluded by contract from granting licences under the patent, and the Registrar may require from the applicant such further evidence as he may think necessary.

(6) An application made under this section for the endorsement of a patent of addition shall be treated as an application for the endorsement of the patent for the main invention also, and an application made under this section for the endorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the endorsement of the patent of addition also, and where a patent of addition is granted in respect of a patent already endorsed under this section, the patent of addition shall also be so endorsed:

Provided that no royalty shall be paid by a licensee in respect of such endorsement.

(7) All endorsements of patents under this section shall be entered in the register and shall be published in the prescribed manner.

(8) An appeal shall lie from any decision of the Registrar under this

section.

36. (1) Within such time as may be prescribed after a patent has been endorsed under section *thirty-five*, the patentee may apply to the Registrar for cancellation of the endorsement and where such an application is made and the balance paid of all renewal fees which would have been payable if the patent had not been endorsed, the Registrar may, if satisfied that there is no existing licence under the patent or that all licensees under the patent consent to the application, cancel the endorsement accordingly.

Cancellation of
endorsement
made under
section 35

(2) Within the prescribed period after a patent has been endorsed as aforesaid, any person who claims that the patentee is, and was at the time of the endorsement, precluded by a contract in which the claimant is interested from granting licences under the patent may apply to the Registrar for cancellation of the endorsement.

(3) Where the Registrar is satisfied, on application made under subsection (2), that the patentee is and was precluded as aforesaid, he shall cancel the endorsement, and thereupon the patentee shall be liable to pay, within such period as may be prescribed, a sum equal to the balance of all renewal fees which would have been payable if the patent had not been endorsed, and if that sum is not paid within that period the patent shall cease to have effect at the expiration of that period.

(4) Where the endorsement of a patent is cancelled under this section, the rights and liabilities of the patentee with respect to it shall thereafter be the same as if the endorsement had not been made.

(5) An applicant shall advertise in the prescribed manner any application made by him under this section and within the prescribed period after such advertisement-

(a) in the case of an application under subsection (1), any person interested; and

(b) in the case of an application under subsection (2), the patentee and either additionally or alternatively any person interested;
may give notice to the Registrar of opposition to the cancellation.

(6) Where any such notice of opposition is given, the Registrar shall fix a date for the hearing of the application and shall advise in writing the parties of the date so fixed, and shall, after giving the applicant and the opponent an opportunity to be heard, give such decision on the application as he may consider just.

(7) An application made under this section for the cancellation of the endorsement of a patent of addition shall be treated as an application for the cancellation of the endorsement of the patent for the main invention also, and an application made under this section for the cancellation of the endorsement of a patent in respect of which a patent of addition is in force shall be treated as an application for the cancellation of the endorsement of the patent of addition also.

(8) An appeal shall lie from any decision of the Registrar under this section.

37. (1) Subject to the provisions of subsection (14), any person interested who can show that he has been unable to obtain a licence under a patent on reasonable terms may, after the expiration of a period of three years subsequent to the date on which that patent was sealed or four years subsequent to the date on which the application in respect thereof was lodged, whichever period last expires, apply to the Registrar in the prescribed manner for a compulsory licence on the ground that the reasonable requirements of the public with respect to the invention in question have not been or will not be satisfied.

Compulsory
licence in case
of abuse or
insufficient use
of patent rights

(2) Every application under this section shall set out fully the nature of the applicant's interest, the facts on which he bases his case and the relief he seeks, and shall be accompanied by an affidavit verifying the facts set out in such application.

(3) If, after consideration of any such application, the Registrar is satisfied that the applicant has a *bona fide* interest, and that a *prima facie* case for relief has been made out, he shall direct the applicant to serve copies of the application and of the relevant affidavit upon the patentee and upon any other person appearing from the register to be interested in the patent, and to advertise the application in the prescribed manner.

(4) If the patentee or any other person wishes to oppose the grant of a licence under this section, he may, within the prescribed period or within such further period as the Registrar may on application allow, deliver to the Registrar a counter-statement, verified by affidavit, setting out fully the grounds on which the application is opposed, and shall at the same time serve upon the applicant copies of the counter-statement.

(5) When, in relation to an application or an opposition thereto, the foregoing provisions of this section have been complied with to the extent therein required, the Registrar shall send all relevant papers to the High Court, and that court shall arrange for the matter to be heard in the manner prescribed and, subject to the provisions of this section, the High Court may make such order therein as it deems just.

(6) The reasonable requirements of the public referred to in subsection (1) shall be deemed not to have been satisfied in any of the following circumstances, namely:

(a) if the patented invention, being an invention capable of being worked in Zambia, is not being worked therein on a commercial scale and there is no satisfactory reason for such non-working:

Provided that, if an application for a compulsory licence is made on this ground and the High Court is of the opinion that the time which has elapsed since the sealing of the patent has by reason of the nature of the invention or for any other reason been insufficient to enable the invention to be worked within Zambia on a commercial scale, the High Court may make an order adjourning the hearing of the application for such period as will in its opinion be sufficient for that purpose;

(b) if the working of the invention within Zambia on a commercial scale is being prevented or hindered by the importation of the patented article by the patentee or persons claiming under him, or by persons directly or indirectly purchasing from him or by persons against whom the patentee is not taking or has not taken proceedings for infringement;

(c) if the demand for the patented article in Zambia is not being met to an adequate extent and on reasonable terms;

(d) if by reason of the refusal of the patentee to grant a licence or

licences upon reasonable terms, the trade or industry of Zambia or the trade of any person or class of persons trading in Zambia, or the establishment of any new trade or industry in Zambia, is being prejudiced, and it is in the public interest that a licence or licences should be granted;

(e) if any trade or industry in Zambia, or any person or class of persons engaged therein, is being prejudiced by unfair conditions attached by the patentee, whether before or after the commencement of this Act, to the purchase, hire, licence or use of the patented article, or the using or working of the patented process;

(f) if any condition which under the provisions of section *forty-nine* is null and void as being in restraint of trade and contrary to public policy, has been inserted in any contract made in relation to the sale or lease of or any licence to use or work any article or process protected by the patent:

Provided that, for the purpose of determining whether there has been any abuse of the monopoly rights under a patent, due regard shall be had to the fact that patents are granted not only to encourage invention but also to secure that inventions shall so far as possible be worked on a commercial scale in Zambia without undue delay.

(7) The High Court may order the grant to the applicant of a licence on such terms as it may think expedient, including a term precluding the licensee from importing into Zambia any goods whereof the importation by persons other than the patentee or persons claiming under him, would be an infringement of the patent.

(8) If in respect of an application under this section the High Court is satisfied that the invention which is the subject of the application is not being worked on a commercial scale within Zambia, and is such that it cannot be so worked without the expenditure of capital for the raising of which it will be necessary to rely on the patent monopoly, it may, unless the patentee or those claiming under him will undertake to find such capital, order the grant to the applicant or any other person, or to the applicant jointly with one or more other persons, if able and willing to provide such capital, of an exclusive licence on such terms as the High Court may think just, but subject as hereinafter provided.

(9) The terms of any exclusive licence ordered to be granted under subsection (8) shall, with due regard to the risks to be undertaken by the licensee in providing the capital and working the invention, be so framed as-

(a) to secure to the patentee the maximum royalty compatible with the successful working of the invention within Zambia on a commercial scale and at a reasonable profit;

(b) to guarantee to the patentee a minimum yearly sum by way of royalty, if and so far as it is reasonable to do so;

and in addition to any other terms of the licence or order, the licence and the order shall be made revocable at the discretion of the High Court if the licensee fails to-

(i) work the invention within the time specified in the order;

(ii) expend the amount specified in the licence as being the amount which he is able and willing to provide for the purpose of working the invention on a commercial scale within Zambia; or

(iii) pay to the patentee the royalties payable in terms of the licence.

(10) In deciding to whom an exclusive licence is to be granted, the High Court shall, unless good reason is shown to the contrary, prefer an existing licensee to a person who, according to the register, has no interest in the patent.

(11) The order directing the grant of an exclusive licence under this section shall operate to divest the patentee of any right which he may have as patentee to work or use the invention, and to revoke all existing licences, unless otherwise provided in the order, and may, if considered fair and equitable by the High Court, be made subject to the condition that the licensee shall give proper compensation to be fixed by the High Court for any money or labour expended by the patentee or any existing licensee in developing or working the invention.

(12) A licensee under this section shall be entitled to call upon the patentee concerned to institute any proceedings which may be necessary to prevent infringement of the patent in question and shall in all other respects have the same rights as any other licensee, and if the patentee fails within two months after being called upon by the licensee, or within such further period as the High Court may allow, to institute any

such proceedings, the licensee may himself institute such proceedings as if he were the patentee, making the patentee a defendant, but the patentee shall not be liable for any costs in connection with such proceedings unless he enters an appearance and takes part in those proceedings.

(13) The existence of a compulsory licence granted solely on the ground that an invention is not being worked in Zambia on a commercial scale shall not preclude the grant of further licences (including compulsory licences) in respect of that invention, but the holder of any compulsory licence shall not be entitled to transfer that licence or grant a sub-licence thereunder except to a person to whom the business, or the part of the business in connection with which the rights under the licence were exercised, has been transferred.

(14) Except in the case of a licence to be granted under subsection (8), no licence shall be granted in terms of this section or of section *thirty-eight* while the relevant patent remains endorsed "licences of right" under section *thirty-five*.

(15) For the purposes of this section, the expression "patented article" includes any article made by a patented process.

(As amended by No. 36 of 1960, G.N. No. 185 of 1964 and Act No. 18 of 1980)

38. (1) Subject to the provisions of subsection (14) of section *thirty-seven* and without prejudice to the other foregoing provisions of this Act, where a patent is in force in respect of-

Inventions
relating to food
or certain other
commodities

(a) a substance capable of being used as food or medicine, or in the production of food or medicine;

(b) a process for producing such a substance as aforesaid; or

(c) any invention capable of being used as or as part of a surgical or curative device;

the High Court shall, on application made to it by any person interested, order the grant to the applicant of a licence under the patent on such terms as it thinks fit unless it appears to the Court that there are good

reasons for refusing the application.

(2) In setting the terms of licences under this section, the High Court shall endeavour to secure that food, medicines, and surgical and curative devices shall be available to the public at the lowest prices consistent with the patentees deriving a reasonable advantage from their patent rights.

(3) A licence granted under this section shall entitle the licensee to make, use, exercise and vend the invention as a food or medicine, or for the purposes of the production of food or medicine or as part of a surgical or curative device, but for no other purposes.

(As amended by Act No. 18 of 1980)

39. (1) Any order under this Act for the grant of a licence shall, without prejudice to any other method of enforcement, have effect as if it were an agreement executed by the patentee and all other necessary parties granting a licence in accordance with the order. Supplementary provisions as to licences

(2) No order shall be made in pursuance of any application under section *thirty-seven* which would be at variance with the provisions of the Convention.

40. (1) Notwithstanding anything in this Act, any Government department or any person authorised in writing by the Minister may make, use or exercise any invention disclosed in any specification lodged at the Patent Office for the service of the State in accordance with the provisions of this section. Use of patented inventions for services of the State

(2) If and so far as the invention has, before the effective date of the relevant claim of the completed specification, been duly recorded by or tried by or on behalf of a Government department or a person authorised in terms of subsection (1), otherwise than in consequence of the communication thereof directly or indirectly by the patentee or any person from whom he derives title, any use of the invention by virtue of this section may be made by such Government department or person free of any royalty or other payment to the patentee.

(3) If and so far as the invention has not been so recorded or tried as

aforesaid, any use of the invention made by virtue of this section at any time after the acceptance of the complete specification in respect of the patent, or in consequence of any such communication as aforesaid, shall be made upon such terms as may be agreed upon, either before or after the use, between the Minister and the patentee with the approval of the Minister responsible for finance, or as may in default of agreement be determined by the High Court on a reference under subsection (1) of section *forty-two*.

(4) The authority of the Minister in respect of an invention may be given under this section either before or after the patent is granted and either before or after the acts in respect of which the authority is given are done, and may be given to any person, whether or not he is authorised directly or indirectly by the patentee to make, use, exercise or vend the invention.

(5) Where any use of an invention is made by or with the authority of the Minister under this section, then, unless it appears to him that it would be contrary to the public interest so to do, the Minister shall notify the patentee as soon as practicable after the use is begun, and furnish him with such information as to the extent of the use as he may from time to time require.

(6) For the purposes of this section, section *forty-one* and section *forty-two*, any use of an invention for the supply to the government of any country outside Zambia, in pursuance of any agreement or arrangement between the Government and the government of that country, of articles required for the defence of that country shall be deemed to be a use of the invention for the services of the State, and the power of a Government department or a person authorised by the Minister under this section to make, use and exercise an invention shall include power-

(a) to sell such articles to the government of any country in pursuance of any such agreement or arrangement as aforesaid; and

(b) to sell to any person any articles made in the exercise of the powers conferred by this section which are no longer required for the purpose for which they were made.

(7) The purchaser of any articles sold in the exercise of powers

conferred by this section, and any person claiming through him, shall have power to deal with them in the same manner as if the patent were held on behalf of the President.

(8) The Minister may, by statutory instrument, make regulations governing the rights of third parties in relation to any use of a patented invention, or an invention in respect of which an application for a patent is pending, made for the services of the State in terms of this section or section *forty-one*.

(As amended by G.N. No. 185 of 1964, S.I. No. 175 of 1965 and Act No. 18 of 1980)

41. (1) For the purposes of this section, the expression "period of emergency" means any period beginning on such date as may be declared by the Minister by statutory notice to be the commencement, and ending on such date as may be so declared to be the termination, of a period of emergency.

Special provisions as to State use during emergency

(2) During any period of emergency the powers exercisable in relation to an invention by a Government department or a person authorised by the Minister under section *forty*, shall include power to make, use, exercise and vend the invention for any purpose which appears to the Minister necessary or expedient-

(a) for the efficient prosecution of any war in which the Republic may be engaged;

(b) for the maintenance of supplies and services essential to the life of the community;

(c) for securing a sufficiency of supplies and services essential to the well-being of the community;

(d) for promoting the productivity of industry, commerce and agriculture;

(e) for fostering and directing exports and reducing imports or imports of any classes, from all or any countries and for redressing the balance of trade;

(f) generally for ensuring that the whole resources of the community are available for use, and are used, in a manner best calculated to serve the interests of the community; or

(g) for assisting the relief of suffering and the restoration and distribution of essential supplies and services in any part of Her Britannic Majesty's dominions or any foreign countries that are in grave distress as the result of war;

and any reference in that section or in section *forty-two* to the services of the State shall be construed as including a reference to the purposes aforesaid.

(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)

42. (1) Any dispute as to-

Reference of
disputes as to
State use

(a) the exercise by a Government department or a person authorised by the Minister of the powers conferred by section *forty*;

(b) the terms for the use of an invention for the services of the State thereunder;

(c) the compensation payable upon a reference to the High Court under subsection (5) of section *twenty-four*; or

(d) the right of any person to receive any part of a payment determined in terms of paragraph (b) or (c);

may be referred to the High Court by any party to the dispute in such manner as may be prescribed.

(2) In any proceedings under this section to which a Government department is a party, the Minister may-

(a) if the patentee is a party to the proceedings, apply for revocation of the patent upon any ground upon which a patent may be revoked under section *fifty*;

(b) in any case, put in issue the validity of the patent without

applying for its revocation.

(3) If in such proceedings as aforesaid any question arises whether an invention has been recorded or tried as mentioned in section *forty*, or has been used by or on behalf of or to the order of a Government department under subsection (4) of section *twenty-four*, and the disclosure of any document recording the invention, or of any evidence of the trial or use thereof, would, in the opinion of the Minister, be prejudicial to the public interest, the disclosure may be made confidentially to counsel appearing for the other party or to an independent expert agreed upon by the parties.

(4) In determining under this section any dispute between a Government department and any person as to terms for the use of an invention for the services of the State, the High Court shall have regard to any benefit or compensation which that person or any person from whom he derives title may have received, or may be entitled to receive, directly or indirectly from any Government department in respect of the invention in question.

*(As amended by S.I. No. 175 of 1965
and Act No. 18 of 1980)*

PART VI

SPECIAL PROVISIONS RELATING TO SPECIFICATIONS, ANTICIPATION AND RIGHTS IN INVENTIONS

43. (1) An applicant for a patent or a patentee may, at any time by request in writing lodged at the Patent Office, seek leave to amend either his provisional or his complete specification, including drawings forming part thereof, and shall in making any such request state the nature of the proposed amendment and the reasons therefor.

Amendment of
specification by
Registrar

(2) Where there are joint applicants or patentees, the request shall be made by them jointly or by one or more of them with the written consent of the other or others, and in the case of disagreement between them the Registrar may, if satisfied that one or more of them should be allowed to proceed alone and subject to such conditions as he may impose, permit the request to be made without the consent of the others:

Provided that all parties interested shall be notified by the applicant of the request and be entitled to be heard before any decision is given thereon.

(3) An amendment of an accepted complete specification shall be allowed only if it is by way of disclaimer, correction or explanation, and no amendment of any specification, except by way of correcting an obvious mistake, shall be allowed if the result would be that the specification as amended would claim or describe matter not in substance disclosed in the specification before amendment, or would include any claim not wholly within the scope of a claim included in the specification before amendment.

(4) The request for an amendment of an accepted complete specification and its nature shall be advertised by the applicant in the prescribed manner, and at any time within three months of the advertisement, or such further time as the Registrar, subject to such conditions as he may impose, may allow, any person may give notice at the Patent Office of opposition to the amendment.

(5) Notice of opposition shall be given in the prescribed manner to the Registrar and to the person making the request, and the Registrar shall hear the person making the request and the person who has given notice of opposition and determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(6) Where a complete specification has not been accepted or, if it has been accepted, no notice of opposition has been given or any such notice has been withdrawn, the Registrar shall determine whether and subject to what conditions, if any, the amendment ought to be allowed.

(7) No request for amendment under this section shall be allowed if and so long as any proceedings are pending for infringement or revocation of the patent in question.

(8) An appeal shall lie from any decision of the Registrar under this section.

44. In any action for infringement of a patent or any proceedings before the High Court for the revocation of a patent, that court may, subject to the provisions of subsection (3) of section *forty-three*, allow the patentee to amend his complete specification in such manner and subject to such terms as to costs, advertisement or otherwise as that court may think fit, and, if in any such proceedings for revocation the High Court decides that the patent is invalid, it may allow the specification to be amended under this section instead of revoking the patent.

Amendment of specification with leave of High Court

(As amended by Act No. 18 of 1980)

45. Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act after the publication of the specification, no damages shall be awarded in any proceedings in respect of the use of the invention before the date of the decision allowing the amendment, unless the High Court is satisfied that the specification as originally published was framed in good faith and with reasonable skill and knowledge.

Restrictions on recovery of damages in certain cases

(As amended by Act No. 18 of 1980)

46. (1) A patent shall not be refused or held to be invalid by reason only of the fact that the invention in respect of which the patent is applied for or was granted or any part thereof was published, used or known prior to the effective date of the application, if the applicant or the patentee, as the case may be, proves that the knowledge was acquired or the publication or use was made without his knowledge or consent, and that the knowledge acquired or the matter published or used was derived or obtained from him, and, if he learnt of the disclosure, use or knowledge before the effective date of his application for the patent, that he applied for and obtained protection for his invention with all reasonable diligence after learning of the disclosure:

Savings for anticipation

Provided that the protection afforded by this section shall not extend to a patentee or an applicant for a patent who has or whose predecessors in title have prior to the effective date of the application worked the invention in the former Federation of Rhodesia and Nyasaland or, after the 1st January, 1964, in the former Protectorate of Northern Rhodesia or, after the 24th October, 1964, in the Republic commercially, otherwise than for the purpose of reasonable technical trial thereof.

(2) An invention claimed in a complete specification shall not be deemed to have been anticipated by reason only of the communication of the invention to a Government department or to any person authorised by the Minister to investigate the invention or its merits, or of anything done by any person whomsoever in consequence of such a communication, for the purpose of the investigation.

*(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

47. (1) Where a patent is granted to two or more persons, each of those persons shall, unless an agreement to the contrary is in force, be entitled to an equal undivided share in the patent. Co-ownership of patents

(2) Subject to the provisions of this section, where two or more persons are registered as patentees then, unless an agreement to the contrary is in force, each of those persons shall be entitled by himself or his agents, to make, use, exercise and vend the patented invention for his own benefit without accounting to the other or others.

(3) Subject to the provisions of subsections (6), (7) and (8) and to any agreement for the time being in force, a licence under a patent shall not be granted, and a share in a patent shall not be assigned, except with the consent of all persons, other than the licensor or assignor, who are registered as patentees.

(4) Where a patented article is sold by one of two or more persons registered as patentees, the purchaser and any person claiming through him shall in respect of such article be entitled to deal with it in the same manner as if it had been sold by a sole patentee.

(5) Subject to the provisions of this section, the rules of law applicable to the ownership and devolution of movable or personal property generally shall apply in relation to patents as they apply in relation to other incorporeal rights or choses in action.

(6) Where two or more persons are registered as patentees, the Registrar may, upon application made to him in the prescribed manner by any of those persons, give such directions in accordance with the application as to the sale or lease of the patent or any interest therein, the grant of

licences under the patent or the exercise of any right under subsections (1) to (5) in relation thereto, as he thinks fit.

(7) If any person registered as patentee fails to execute any instrument or to do any other thing required for the carrying out of any direction given under this section within fourteen days after being requested in writing so to do by any of the other persons so registered, the Registrar may, upon application made to him in the prescribed manner by any such other person, give directions empowering any person to execute that instrument or to do that thing in the name and on behalf of the person in default.

(8) Before giving directions in pursuance of an application under subsection (6) or (7), the Registrar shall give an opportunity to be heard-

(a) in the case of an application under subsection (6), to the other person or persons registered as patentees;

(b) in the case of an application under subsection (7), to the person in default.

(9) An appeal shall lie from any decision of the Registrar under this section.

(10) No directions shall be given under this section so as to affect the mutual rights or obligations of trustees or of the legal representatives of a deceased person, or their rights or obligations as such.

48. (1) Where a dispute arises between an employer and a person who is or was at the material time his employee as to the rights of the parties in respect of an invention made by the employee either alone or jointly with other employees or in respect of any patent granted or to be granted in respect thereof, the Registrar may, upon application made to him in the prescribed manner by either of the parties, and after giving to each of them an opportunity to be heard, determine the matter in dispute, and may make such orders for giving effect to his decision as he considers expedient.

Disputes as to
inventions
made by
employees

(2) In proceedings before the High Court between an employer and a person who is or was at the material time his employee, or upon an

application made to the Registrar under subsection (1), the High Court or Registrar, as the case may be, may, unless satisfied that one or other of the parties is entitled, to the exclusion of the other, to the benefit of an invention made by the employee, by order provide for the apportionment between them of the benefit of the invention, and of any patent granted or to be granted in respect thereof, in such manner as the High Court or Registrar considers just.

(3) A decision of the Registrar under this section shall have the same effect as between the parties and persons claiming under them as a decision of the High Court.

(4) An appeal shall lie from any decision of the Registrar under this section.

49. (1) It shall not be lawful in any contract made after the commencement of this Act in relation to the sale or lease of or a licence to use or work any article or process protected by a patent to insert a condition the effect of which will be-

Avoidance of certain
restrictive conditions in
contracts

(a) to prohibit or restrict the purchaser, lessee or licensee from using any article or class of articles, whether patented or not, or any patented process, supplied or owned by any person other than the seller, lessor or licensor or his nominee; or

(b) to require the purchaser, lessee or licensee to acquire from the seller, lessor or licensor or his nominee any article or class of articles not protected by the patent;

and any such condition shall be null and void, as being in restraint of trade and contrary to public policy:

Provided that this subsection shall not apply if-

(i) the seller, lessor or licensor proves that at the time the contract was entered into, the purchaser, lessee or licensee had the option of purchasing the article or obtaining a lease or licence on reasonable terms without such conditions as aforesaid; and

(ii) the contract entitles the purchaser, lessee or licensee to relieve himself of his liability to observe any such condition on giving the other party three months' notice in writing and on payment, if the Registrar so directs, of compensation for such relief, in the case of a purchase of such

sum, or in case of a lease or licence of such rent or royalty for the residue of the term of the contract, as may be fixed by the Registrar.

An appeal shall lie from any decision of the Registrar under proviso (ii).

(2) Any contract relating to the lease of or licence to use or work any patented article or patented process may, at any time after the patent or all the patents by which the article or process was protected in Zambia at the time of the making of the contract has or have ceased to be in force, and notwithstanding anything to the contrary in the same or in any other contract, be determined by either party on giving three months' notice in writing to the other party.

(3) Nothing in this section shall-

(a) affect any condition in a contract whereby any person is prohibited from selling any goods other than those of a particular person;

(b) be construed as validating any contract which would, apart from this section, be invalid;

(c) affect any right of determining a contract or condition in a contract exercisable independently of this section;

(d) affect any condition in a contract for the lease of or a licence to use a patented article, whereby the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the patented article as may be required to put or keep it in repair.

(As amended by G.N. No. 185 of 1964)

50. (1) Application for revocation of a patent may be made to the High Court by any person interested, including the State, upon any one or more of the grounds on which the grant of a patent might have been opposed, but subject to the provisions of subsection (2), of proviso (ii) to paragraph (b) of subsection (7) of section *eight*, and of paragraph (b) of subsection (1) of section *ten*, on no other grounds.

Revocation of
patents

(2) Where an order for the granting of a licence under the patent has been made in pursuance of an application under section *thirty-seven* any person interested may, at any time after the expiration of two years from

the date of that order, apply to the High Court for the revocation of the patent upon any of the grounds specified in subsection (6) of the said section *thirty-seven*; and if upon such application the High Court is satisfied-

(a) that any of the said grounds are established; and

(b) that the purpose for which an order may be made in pursuance of an application under the said section *thirty-seven* could not be achieved by the making of any further order under that section;

it may order the patent to be revoked.

(3) Any such application shall state the grounds on which the applicant relies, and shall be accompanied by a statement setting out particulars of the facts alleged in support of the said grounds, and a copy of the application and of the statement shall be served by the applicant on the patentee and proof of such service shall be furnished to the Registrar.

(4) If the patentee wishes to contest the application made in terms of subsection (1) or subsection (2), he shall, within such time as may be prescribed or such further time as the High Court may allow, lodge at the Patent Office a counter-statement setting out particulars of the grounds upon which the application is contested and deliver to the applicant a copy of that statement.

(5) Except by leave of the High Court, no evidence shall be admitted in proof of any ground, particulars of which are not delivered as aforesaid.

(6) Particulars delivered may from time to time be amended by leave of the High Court.

(7) The High Court shall appoint a time for the hearing of any such application, and shall thereafter decide whether the patent shall be revoked or whether and, if so, subject to what amendments, if any, of the specification or claims thereof, the patent shall be upheld:

Provided that the High Court-

(i) shall not allow any amendment of the specification or claims as aforesaid if it is established to its satisfaction that the original complete

specification and claims were not framed in good faith and with reasonable skill and knowledge; and

(ii) may, in the exercise of its discretion as to costs, take into consideration the conduct of the patentee in framing his original specification and claims and permitting them to remain as so framed.

(8) An order for the revocation of a patent under this section may be made so as to take effect either unconditionally or, in the event of failure to comply, within such reasonable period as may be specified in the order, with such conditions as may be imposed by the order with a view to achieving the purposes aforesaid, and the High Court may, on reasonable cause shown in any case, by subsequent order, extend any period so specified.

*(As amended by S.I. No. 175 of 1965
and Act No. 18 of 1980)*

51. (1) Where a patent is revoked on the ground of fraud, or a patent fraudulently obtained has been surrendered and revoked, or the grant of a patent has been refused under the provisions of paragraph (b) of subsection (1) of section *twenty-two*, the High Court may, on the application of the person entitled to the invention for Zambia or his legal representative, made in accordance with the provisions of this Act, direct the grant to him of a patent for the whole or any part of the invention, bearing the same date as the patent so revoked or as would have been borne by the patent which has been refused, if the grant thereof had not been refused.

Consequences
of revocation on
grounds of
fraud

(2) Where in proceedings before the High Court in connection with opposition to the grant of a patent, the High Court has found that an invention was in part obtained from the objector and has required that the specification be amended by the exclusion of that part of the invention, the High Court may direct that, on the application of the inventor or any person claiming through or under him made in accordance with the provisions of this Act within three months after the date of the direction or within such further period as the High Court may allow, a patent for that excluded part of the invention bearing the date of and having the same effective date as the opposed application be granted to the applicant concerned.

(3) No action shall be brought for any infringement of a patent committed-

(a) in the case of a patent granted under subsection (1), before the date of sealing thereof; or

(b) in the case of a patent granted under subsection (2), before the date of advertisement of acceptance of the complete specification lodged in pursuance of the application for such patent.

*(As amended by G.N. No. 185 of 1964
and Act No. 18 of 1980)*

52. (1) A patentee may at any time by notice given to the Registrar offer to surrender his patent. Surrender of patents

(2) Where such an offer is made, the patentee shall advertise the offer in the prescribed manner, and within the prescribed period after such advertisement any person interested may give notice to the Registrar of opposition to the surrender.

(3) Where any such notice of opposition is duly given, the Registrar shall notify the patentee.

(4) If the Registrar is satisfied, after hearing the patentee and any opponent, if desirous of being heard, that the patent may properly be surrendered, he may accept the offer and by order revoke the patent.

(5) An appeal shall lie from any decision of the Registrar under this section.

PART VII

INFRINGEMENTS

53. (1) An action for infringement of a patent may only be instituted by the patentee or the exclusive licensee. Such action shall be heard and determined by the Court and, subject to the provisions of any rules made under section *eighty-one*, the following provisions shall apply in connection therewith, namely: Procedure and conditions in action for infringement

(a) any ground upon which a patent may be revoked under this Act may be relied upon by way of defence;

(b) the defendant may, by way of counter-claim in the action, apply for the revocation of the patent;

(c) the plaintiff shall, with his statement of claim or declaration or on the order of the Court at any subsequent time, deliver full particulars of the infringement complained of;

(d) the defendant shall, with his statement of defence or plea or on the order of the Court at any subsequent time, deliver particulars of any objections on which he relies in support thereof;

(e) at the hearing no evidence shall, except by leave of the Court, be admitted of any infringement or on any objections of which particulars have not been so delivered;

(f) the Court may allow the patentee to amend his specification, subject to such terms as to costs, advertisement or otherwise as it may impose and to the provisions of subsection (3) of section *forty-three*.

(2) In any action under this section where an exclusive licensee is the plaintiff, the patentee shall, unless he is joined as plaintiff in such action, be added as defendant:

Provided that a patentee so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(3) If the patentee is the plaintiff in any such action, he shall give notice thereof to the exclusive licensee under the patent in question and any such licensee shall be entitled to intervene as a co-plaintiff and to recover any damages he may have suffered as a result of the infringement.

(4) No action under this section shall lie in respect of an infringement which took place before the publication referred to in subsection (2) of section *twenty-one*.

(5) In an action for infringement of a patent, the plaintiff shall be entitled to relief by way of injunction or interdict and damages and the Court may, on application, make such order for an injunction, interdict, damages, inspection or account and impose such terms and give such directions as it may deem fit.

(6) In an action for infringement of a patent in respect of an invention which relates to the protection of a new substance, any substance of the same chemical composition and constitution shall in the absence of proof to the contrary be deemed to have been produced by the patented process.

(As amended by G.N. No. 185 of 1964)

54. Where, in any action for the infringement of a patent, the Court finds that any claim in the specification in respect of which the infringement is alleged is valid, but that any other claim thereunder is invalid, then, notwithstanding the provisions of section *fifty-three*, the following provisions shall apply, namely:

Relief for
infringement of
partially valid
specification

(a) unless the Court is satisfied that the invalid claim was not framed in good faith and with reasonable skill and knowledge, the Court shall, subject to its discretion as to costs and as to the date from which damages should be reckoned, and to such terms as to amendment of the specification as it may deem desirable, grant relief in respect of any valid claim which is or has been infringed, without regard to the invalidity of any other claim in the specification and, in exercising such discretion, the Court may take into consideration the conduct of the patentee in inserting the invalid claim in the specification or permitting that claim to remain there;

(b) if the Court is so satisfied, it shall not grant any relief by way of damages or costs, but may grant such other relief in respect of any valid claim which is or has been infringed as to it seems just and may impose such terms as to amendment of the specification as a condition of granting any such relief as it may deem desirable;

(c) if a counter-claim for revocation of the patent has been made in the action on the ground of invalidity of any claim in the specification, the Court may postpone the operation of any order made thereon for such time as may be requisite to enable the patentee to effect any amendment of the specification pursuant to terms imposed by the Court and may attach such other conditions to any order to be made on the counter-claim as the Court may deem desirable.

55. (1) In proceedings for the infringement of a patent, damages shall not be awarded against a defendant who proves that, at the date of the infringement, he was not aware, and had no reasonable grounds for supposing and had no reasonable means of making himself aware, that the patent existed, and the application to an article of the word "patent", "patented", or any word or words expressing or implying that a patent has been obtained for the article, shall not constitute such grounds or means unless the number and year of the patent accompanied the word or words in question.

Restrictions on recovery of damages for infringement

(2) If proceedings are taken in respect of infringement of a patent committed after the failure to pay any fee within the prescribed time and before any extension of time for such payment, the Court may, if it thinks fit, refuse to award any damages in respect of such infringement.

(3) Nothing in this section shall affect the power of the Court to grant an injunction or interdict in any proceedings for the infringement of a patent.

56. (1) Where any person (whether entitled to or interested in a patent or an application for a patent or not) by circulars, advertisements or otherwise threatens any other person with proceedings for infringement of a patent, any person aggrieved thereby may in the prescribed manner bring an action against him in the Court for any such relief as is mentioned in subsection (2).

Remedy for groundless threats of infringement proceedings

(2) Unless in any action brought by virtue of this section the defendant proves that the acts in respect of which proceedings were threatened constitute or, if done, would constitute, an infringement of a patent or of rights arising from the publication of a complete specification in respect of a claim of the specification not shown by the plaintiff to be invalid, the plaintiff shall be entitled to the following relief, that is to say:

(a) a declaration to the effect that the threats are unjustifiable;

(b) an injunction or interdict against the continuance of the threats;
and

(c) such damages, if any, as he has sustained thereby.

(3) For the avoidance of doubt, it is hereby declared that a mere notification of the existence of a patent does not constitute a threat of proceedings within the meaning of this section.

(4) The defendant in any such action as aforesaid may apply, by way of counter-claim in the action, for any relief to which he would be entitled in a separate action in respect of any infringement by the plaintiff of the patent to which the threats relate.

(As amended by G.N. No. 185 of 1964)

57. (1) A declaration that the use by any person of any process, or the making or use or sale by any person of any article, does not or would not constitute an infringement of a claim of a patent may be made by the Court in proceedings between that person and the patentee or the holder of an exclusive licence under the patent, notwithstanding that no assertion to the contrary has been made by the patentee or licensee, if it is shown-

Power of Court
to make
declaration as to
non-infringement

(a) that the plaintiff has applied in writing to the patentee or licensee for a written acknowledgment to the effect of the declaration claimed, and has furnished him with full particulars in writing of the process or article in question; and

(b) that the patentee or licensee has refused or neglected to give such an acknowledgment.

(2) The costs of all parties in proceedings for a declaration brought by virtue of this section shall be ordered as the Court may deem fit:

Provided that a patentee or holder of an exclusive licence under the patent shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(3) The validity of a claim of the specification of a patent shall not be called in question in proceedings for a declaration brought by virtue of this section, and accordingly the making or refusal of such a declaration in the case of a patent shall not be deemed to imply that the patent is valid.

(4) Proceedings for a declaration may be brought by virtue of this section at any time after the date of the notice of the acceptance of the complete specification in pursuance of an application for a patent, and references in this section to the patentee shall be construed accordingly.

(As amended by G.N. No. 185 of 1964)

57A. In this Part, unless the context otherwise requires, Court means the High Court.

Definition of Court

(As amended by Act No. 18 of 1980)

PART VIII

ASSIGNMENTS AND CORRECTIONS

58. (1) Subject to the provisions of subsection (7) of section *thirty-one*, the rights granted to a patentee by a patent shall be capable of assignment and of devolution by operation of law and of being mortgaged and pledged.

Provisions as to assignments

(2) Where any person becomes entitled by assignment, transmission or operation of law to a patent or to a share in a patent, or becomes entitled as mortgagee, licensee or otherwise to any other interest in a patent, he may apply to the Registrar in the prescribed manner for the registration of his title as proprietor or co-proprietor, or, as the case may be, of notice of his interest, in the register, and the Registrar shall, upon proof of such entitlement to his satisfaction, register such title or notice against the patent accordingly.

(3) Except for the purposes of an application to rectify the register under the provisions of this Act, a document in respect of which no entry has been made in the register under subsection (2) shall not be admitted in any proceedings as evidence of the title of any person to a patent, or a share of or interest in a patent, unless the High Court or Supreme Court otherwise directs.

(As amended by G.N. No. 185 of 1964 and Act No. 18 of 1980)

59. (1) The Registrar may authorise-

Power of

Registrar to
authorise
corrections

(a) the correction of any clerical error or omission, or error in translation in any patent, application for a patent or document lodged in pursuance of such an application, or in the register;

(b) the amendment otherwise of any documents for the amending of which no express provision is made in this Act;

(c) the condonation or correction of any irregularity in procedure in any proceedings before him, if such condonation or correction is not detrimental to the interests of any person.

(2) A correction may be made in pursuance of this section, either upon a request in writing accompanied by the prescribed fee or without such a request.

(3) Where it is proposed to make a correction otherwise than upon such a request, the Registrar shall give notice of the proposal to the patentee or the applicant for the patent, as the case may be, and to any other person who appears to him to be concerned, and shall give any such person an opportunity of being heard before the correction is made.

(4) Where a request is made for the correction of any such clerical error or omission and it appears to the Registrar that the correction would materially alter the scope of the document to which the request relates, the Registrar may require notice of the request to be advertised in the prescribed manner and to be served upon such persons as he considers necessary.

(5) Any opposition to the request for such correction may be lodged and shall be dealt with by the Registrar in the manner prescribed.

(6) An appeal shall lie from any decision of the Registrar under this section.

60. (1) The High Court may, on the application of any person

Rectification of

aggrieved, order the register to be rectified by the making of any entry therein or the variation or deletion of any entry therein. register

(2) The High Court may determine any question which it may be necessary or expedient to decide in connection with the rectification of the register.

(3) Notice of any application to the High Court under this section shall be given in the prescribed manner to the Registrar and all interested parties, and the Registrar and all such parties shall be entitled to appear and be heard on the application.

(4) Any order made by the High Court under this section shall be served on the Registrar in the prescribed manner, and the Registrar shall, on the receipt of the notice, rectify the register accordingly.

(As amended by Act No. 18 of 1980)

PART IX

FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS

61. (1) A certificate purporting to be signed by the Registrar and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be *prima facie* evidence of the matters so certified.

Evidence of certain entries and documents

(2) A copy of any entry in any register or of any document kept in the Patent Office or of any patent, or an extract from any such register or document, certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence without further proof and without production of the original.

62. The Registrar shall, on the request of any person and on payment of the prescribed fee, furnish copies of any documents which are open to public inspection and which are lodged at the Patent Office or particulars from the register, or furnish a certificate in respect thereof.

Requests for information as to patent or patent

	application
63. Where the Registrar is satisfied that a patent has been lost or destroyed or cannot be produced, he may at any time cause a duplicate thereof to be sealed on payment of such fees as may be prescribed.	Loss or destruction of patent
64. (1) Without prejudice to any provisions of this Act requiring the Registrar to hear any party to proceedings thereunder, or to give to any such party an opportunity to be heard, the Registrar shall give to any applicant for a patent, or for amendment of a specification, an opportunity to be heard before exercising adversely to the applicant any discretion vested in the Registrar by or under this Act.	Exercise of discretionary powers of Registrar
(2) Subject to the provisions of subsection (2) of section <i>eighty</i> , where by this Act any time is specified within which any act or thing is to be done, the Registrar may, save where it is expressly otherwise provided, extend the time, either before or after its expiration, if he is satisfied that the failure to comply with the provisions relating to such time has not been or will not be due to any neglect or default on the part of the person concerned.	
65. (1) Evidence in any proceedings before the Registrar under this Act shall be given by affidavit, so, however, that the Registrar may, if he thinks fit in any particular case, take oral evidence on oath in lieu of or in addition to such evidence as aforesaid, and may allow any witness to be cross-examined on his affidavit or oral evidence.	Proceedings before Registrar
(2) The powers, rights and privileges of the Registrar in proceedings before him under this Act shall be the same as those conferred upon commissioners by the Inquiries Act and the provisions of that Act shall, <i>mutatis mutandis</i> , apply in relation to the hearing and determination of any matter before the Registrar under this Act and to any person summoned to give evidence or giving evidence before him. (As amended by G.N. No. 185 of 1964)	Cap. 41
66. No advertisement or notice, other than a notice issued under the authority of the President or the Minister, shall be published by any person under the provisions of this Act unless it is in the prescribed form and the Registrar has approved the contents of such advertisement or notice, and no advertisement or notice which has not been so approved	Advertisements to be approved by Registrar

shall have any force or effect for the purposes of this Act.

(As amended by G.N. No. 185 of 1964)

PART X

PATENT AGENTS

67. (1) Subject to the provisions of this Act, a patent agent may act as agent on behalf of any person in connection with any matter or proceeding before the Registrar under this Act and may draw and sign all documents and make all communications between an applicant and the Patent Office and may represent an applicant at all attendances before the Registrar.

Patent agents
and their
functions

(2) A patent agent shall not be guilty of an offence under the provisions of any written law in force in Zambia prohibiting the preparation for reward of certain documents by persons not legally qualified, by reason only of the preparation by him of any document relating to patents for use in the Patent Office or required in any proceedings under this Act before the Registrar or the High Court.

*(As amended by G.N. No. 185 of 1964
and Act No. 18 of 1980)*

68. (1) The Registrar shall keep a register of patent agents in which the name of every person, immediately upon his being accepted for registration, shall be registered, showing against his name such particulars as the Registrar shall from time to time deem necessary, and the Registrar shall enter in such register of patent agents all changes relating to registrations.

Qualification
and registration
of patent agents

(2) Any person ordinarily resident in Zambia who-

(a) has passed the prescribed examinations;

(b) produces proof that he is a Fellow in good standing of the Chartered Institute of Patent Agents, incorporated by Royal Charter on the 11th August, 1891;

(c) produces proof that he is a British Oversea Member in good standing of such Institute;

(d) produces proof that he holds any qualification recognised by the Minister as being equivalent to the qualifications required for the purposes of paragraph (a), (b) or (c); or

(e) is a legal practitioner and satisfies the Registrar that prior to the commencement of this Act he has, within Zambia, performed the functions of a patent agent as set out in section *sixty-seven* and has publicly described himself as a patent agent in Zambia;

may make application to the Registrar in the prescribed manner to be registered as a patent agent, and the Registrar shall arrange such registration if he is satisfied that there is no good reason why it should not be arranged and that the applicant is not a person whose name could be removed from the register of patent agents under paragraph (b), (c) or (f) of subsection (1) of section *sixty-nine*;

Provided that a public officer who has been employed in the Patent Office shall not be registered as a patent agent or be permitted to practise as such until at least twelve months have expired since he ceased to be so employed.

(3) An appeal shall lie from any decision of the Registrar made under the provisions of subsection (2).

(As amended by No. 36 of 1960, G.N. No. 185 of 1964 and S.I. No. 175 of 1965)

69. (1) The Registrar may remove from the register of patent agents the name of any patent agent upon proof to his satisfaction that such patent agent-

Removal of
names from
register of
patent agents

(a) has died;

(b) has become of unsound mind;

(c) has been adjudged or otherwise declared bankrupt under any written law or enactment in force in Zambia, or has made an assignment to or composition with his creditors;

(d) has ceased to reside in Zambia, or has ceased to maintain a place of business therein;

(e) has applied for his name to be so removed;

(f) has, after being convicted, in Zambia or elsewhere, of the crime of theft, fraud, forgery or uttering a forged document or perjury, been sentenced to serve a term of imprisonment without the option of a fine, whether such sentence is suspended or not, and has not received a free pardon;

(g) having been entitled to practise as a legal practitioner, or to be registered as a patent agent, has ceased to be so entitled; or

(h) having been entitled to practise as a legal practitioner, or a patent agent, has ceased to practise as such.

An appeal shall lie from any decision of the Registrar made under the provisions of this subsection.

(2) Subject to the provisions of this section and such procedure as may be prescribed, the High Court may order the Registrar to remove the name of any patent agent from the register of patent agents or may suspend any patent agent from practising as such for such time as it thinks fit if it is satisfied, after due inquiry, that such person has been guilty of conduct discreditable to a patent agent or has been guilty of a breach of any regulations prescribed for the conduct of patent agents.

(3) *Repealed by Act No. 18 of 1980.*

(4) Any institute or other organisation recognised by the Minister as being representative of the patent agents in Zambia shall be entitled to be represented, to adduce evidence and to be heard by the High Court before it makes any order in terms of subsection (2).

(5) Where the name of any patent agent has been removed from the register of patent agents under the provisions of subsection (1) or (2), his name shall not be restored to that register except by direction of the High Court, which may further direct that such restoration shall be made either without fee or on payment of such fee, not exceeding the

registration fee, as it may fix, and the Registrar shall restore the name accordingly.

*(As amended by No. 1 of 1962
and G.N. No. 185 of 1964)*

70. Every person entitled to practise as a legal practitioner in Zambia may practise as a patent agent and perform the functions set out in section *sixty-seven* without being registered as a patent agent, but no such person shall be entitled to be so registered except under the provisions of section *sixty-eight*.

Privileges of
legal
practitioners

(As amended by G.N. No. 185 of 1964)

71. (1) No person shall practise as a patent agent unless he is registered as such or is, by virtue of section *seventy*, entitled so to practise.

Entitlement to
practise as
patent agent

(2) A person shall be deemed to practise as a patent agent if he performs any of the functions of a patent agent set out in section *sixty-seven* or if he carries on within Zambia the business of applying for or obtaining for others patents in Zambia or elsewhere.

(3) No person who is not a legal practitioner or registered as a patent agent shall describe himself as, or hold himself out to be, a patent agent or any term implying such a meaning, nor shall he permit himself to be so described or held out.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(As amended by G.N. No. 185 of 1964)

72. (1) No patent agent shall have an interest either as a partner or manager or otherwise in more than one firm of patent agents in Zambia.

Prohibition of
certain acts by
patent agents

(2) No patent agent shall practise under a name or title which includes the name of any person who is not or was not-

- (a) in his lifetime ordinarily resident in Zambia; or
- (b) registered as a patent agent under the provisions of this Act.

(3) No person shall practise as a patent agent if he is a party to-

- (a) a contract of partnership; or
- (b) an arrangement providing for the sharing or paying over of any professional fees;
relating to the business of a patent agent with any person who is prohibited from practising as a patent agent.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(No. 1 of 1962 as amended by G.N. No. 185 of 1964)

PART XI

APPEALS

73. Where this Act provides for appeals from decisions of the Registrar, all such appeals shall be made to the High Court in accordance with the provisions of this Part.

Appeals from
Registrar

(As amended by Act No. 18 of 1980)

74. *Repealed by Act No. 18 of 1980.*

75. *Repealed by Act No. 18 of 1980.*

76. *Repealed by Act No. 18 of 1980.*

77. *Repealed by Act No. 18 of 1980.*

78. (1) Any party to proceedings before the High Court may appeal in accordance with rules made under this Part from any order or decision of that court to the Supreme Court. Appeals to Supreme Court

(2) Upon the hearing of an appeal under the provisions of this section, the Supreme Court may, without prejudice to its other powers-

(a) confirm, set aside or vary the order or decision in question;

(b) remit the proceedings to the High Court with such instructions for further consideration, report, proceedings or evidence as the Supreme Court may think fit to give;

(c) exercise any of the powers which could have been exercised by the High Court in the proceedings in connection with which the appeal is brought;

(d) make such order it may think just as to the costs of the appeal or of earlier proceedings in the matter before the High Court.

(As amended by G.N. No. 185 of 1964 and Act No. 18 of 1980)

79. *Repealed by Act No. 18 of 1980.*

80. (1) Appeals under this Part, whether from decisions of the Registrar or orders or decisions of the High Court shall be brought within three months after the date of the decision or order in question, or within such further time as the High Court or the Supreme Court to which the appeal is brought may allow upon application by the appellant concerned. Time for appeals

(2) The powers of the Registrar as to extensions of time under subsection (2) of section *sixty-four* shall not apply in relation to times for bringing appeals under this Part.

(As amended by Act No. 18 of 1980)

81. 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- Rules of court

- (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 Supreme Court, as the case may be, to be frivolous or vexatious or to be brought for the purpose of delay.

(As amended by Act No. 18 of 1980)

82. Where 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 that court or any decision substituted therefor on appeal to the Supreme Court.

References to
High Court by
Registrar

(As amended by Act No. 18 of 1980)

PART XII

OFFENCES AND PENALTIES

83. If any person makes or causes to be made a false entry in any register kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, he shall be guilty of an offence.

Falsification of
certain
documents

84. (1) Any person who-

Deceiving or
influencing the
Registrar or an
officer

(a) for the purpose of deceiving the Registrar or any other officer of the Patent Office in the execution of the provisions of this Act; or

(b) for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder;

makes or submits a false statement or representation, whether orally or in writing, knowing the same to be false, shall be guilty of an offence.

(2) Any person who, having innocently made a false statement or representation, whether orally or in writing, for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder and who, on becoming aware that such statement or representation was false, fails to advise the Registrar forthwith of such falsity, shall be guilty of an offence.

(No. 12 of 1959)

85. Any person who, after having been sworn, or having in lieu thereof made an affirmation or declaration, wilfully gives false evidence before the Registrar High Court concerning the subject-matter of the proceeding in question, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence.

Witness giving false evidence

(As amended by Act No. 18 of 1980)

86. (1) Any officer of the Patent Office who buys, sells, acquires, or traffics in any invention or patent or any right under a patent shall be guilty of an offence.

Prohibition on trafficking in patents by officers in Patent Office

(2) Every purchase, sale or acquisition, and every assignment of any invention or patent, by or to any such officer shall be null and void.

(3) Nothing in this section contained shall apply to the inventor or to any acquisition by bequest or devolution in law.

87. If any person falsely represents that any article sold by him is a patented article, he shall be guilty of an offence, and for the purposes of this provision a person who sells an article having stamped, engraved or embossed thereon or otherwise applied thereto the word "patent" or "patented" or any other word expressing or implying that the article is patented, shall be deemed to represent that the article is a patented article.

Unauthorised claim of patent right

88. If any person other than a person appointed in terms of section *four* uses on his place of business, or on any document issued by him, or otherwise, the words "Patent Office", or any other words suggesting that his place of business is, or is officially connected with, the Patent Office, he shall be guilty of an offence. Unauthorised use of certain words

89. Any person who is guilty of an offence under this Act shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding three years, or to both. Penalties
(*As amended by Act No. 13 of 1994*)

PART XIII

MISCELLANEOUS

90. (1) Any application, notice or document authorised or required under this Act to be lodged, made or given at the Patent Office, or to the Registrar or any other person, may be delivered by hand or sent by registered post. Lodging and authentication of documents

(2) No authentication shall be required in respect of any document lodged in the Patent Office under the provisions of this Act and used in proceedings before the Registrar.

(*As amended by Act No. 18 of 1980*)

91. Any person who is required under the provisions of this Act to take any oath or swear to the truth of any affidavit may, in lieu thereof, make an affirmation or declaration in accordance with the written law relating to affirmations or declarations in Zambia. Oaths and affirmations

(*As amended by G.N. No. 185 of 1964*)

92. All moneys necessary for the purposes of this Act shall be paid out of moneys appropriated for the purpose by Parliament. Expenses of administration

(*As amended by G.N. No. 185 of 1964 and S.I. No. 175 of 1965*)

93. (1) Where under the provisions of this Act-

Provisions as to
fees

(a) a fee is payable in respect of the performance of any act by the Registrar, the Registrar shall not perform that act until the fee has been paid;

(b) a fee is payable in respect of the doing of any act by any person other than the Registrar, the act shall be deemed not to have been done until the fee has been paid; or

(c) a fee is payable in respect of the lodging of a document, the document shall be deemed not to have been lodged until the fee has been paid.

(2) All fees shall be paid at the Patent Office in such manner as the Registrar, with the approval of the Minister, may accept.

94. Nothing in this Act shall affect the right of the State or of any person deriving title directly or indirectly from the State to sell or use articles forfeited under the provisions of any written law in force in Zambia.

Saving for
certain
forfeitures

*(As amended by G.N. No. 185 of 1964
and S.I. No. 175 of 1965)*

95. (1) The Minister may, when he deems fit, direct the publication by the Registrar of a journal, to be referred to as the Patent Journal, containing particulars of applications for patents and other proceedings or matters arising under the provisions of this Act, together with such reports of cases and other relevant matters as the Minister may deem fit.

Patent Journal

(2) The Registrar shall make provision for selling copies of the Patent Journal at such price and in such manner as the Minister may direct.

96. (1) The Minister may, by statutory instrument, make regulations prescribing anything which under this Act is to be prescribed and generally for the better carrying out of the objects and purposes of this Act or to give force or effect to its provisions or for its better administration.

Regulations

(2) Without derogation from the generality of the provisions of subsection (1), regulations made by the Minister may provide for-

(a) the form of applications for patents and of any specifications, drawings or other documents which may be lodged at the Patent Office, and the furnishing of copies of any such documents;

(b) the procedure to be followed in connection with any application or request to the Registrar, or any proceeding before him, and the authorising of the rectification of irregularities of procedure;

(c) the service of notices and other documents required to be served in connection with proceedings under this Act;

(d) examinations for the qualification of patent agents in terms of this Act, the recognition for such purpose of qualifications obtained either in or outside Zambia, and the fees to be paid in connection with the registration of patent agents;

(e) the conduct of the business of the Patent Office;

(f) other fees payable under this Act, and fees which may be charged in relation to the conduct of patent business by patent agents and legal practitioners performing the functions of patent agents;

(g) authorising the publication and the sale of copies of specifications, drawings and other documents in the Patent Office, and of indexes to and abridgements of such documents;

(h) the professional conduct of patent agents.

(As amended by G.N. No. 185 of 1964)

PART XIV

APPLICATION AND TRANSITIONAL PROVISIONS

97. Save as is otherwise provided in this Act, the provisions of this Act Application of

shall, so far as they are applicable, apply in relation to- Act

(a) any patent granted or registered under the Registration of United Kingdom Patents Act, Chapter 205 of the 1957 Edition of the Laws, or the Patents (Southern Rhodesia) Act, Chapter 208 of the 1948 Edition of the Laws (hereinafter in this section referred to as "such legislation"); and

(b) any application in respect of a patent made under such legislation:

Provided that a patent referred to in this section shall not be liable to revocation except upon some ground upon which it would have been liable to revocation in terms of such legislation.

(No. 12 of 1959 as amended by G.N. No. 185 of 1964)

SUBSIDIARY LEGISLATION

PATENTS SECTION 2-THE PATENTS (CONVENTION COUNTRIES) NOTICE

***Federal
Government
Notice
374 of 1963***

- | | |
|--|--------------------------------------|
| 1. This Notice may be cited as the Patents (Convention Countries) Notice. | Title |
| 2. The countries specified in the First Schedule shall be convention countries. | Convention countries |
| 3. Every country specified in the Second Schedule being a colony, protectorate or territory, subject to the authority or under the suzerainty of a country declared to be a convention country in terms of paragraph 2, or a territory over which a mandate or trusteeship is exercised, shall be a convention country. | Dependencies of convention countries |

FIRST SCHEDULE

(Paragraph 2)

CONVENTION COUNTRIES

- | | | |
|--|-------------------|---------------------------|
| 1. Algeria | 38. Guinea | 76. Portugal |
| 2. Argentina | 39. Guinea-Bissau | 77. Republic of Korea |
| 3. Australia | 40. Haiti | 78. Republic of Macedonia |
| 4. Austria | 41. Holy See | (the |
| 5. Bahamas | 42. Hungary | former Yugoslav |
| 6. Bangladesh | 43. Iceland | Republic) |
| 7. Barbados | 44. Indonesia | 79. Republic of Moldova, |
| 8. Belarus | 45. Iraq | 80. Romania |
| 9. Belgium | 46. Ireland | 81. Russian Federation |
| 10. Benin | 47. Israel | 82. Rwanda |
| 11. Bolivia | 48. Italy | 83. San Marino |
| 12. Brazil | 49. Japan | 84. Senegal |
| 13. Bulgaria | 50. Jordan | 85. Slovakia |
| 14. Burkina Faso | 51. Kazakhstan | 86. Slovenia |
| 15. Burundi | 52. Kenya | 87. South Africa |
| 16. Cameroon | 53. Lebanon | 88. Spain |
| 17. Canada | 54. Latvia | 89. Sri Lanka |
| 18. Central African Republic | 55. Lesotho | 90. Sudan |
| 19. Chad | 56. Libya | 91. Suriname |
| 20. Chile | 57. Liechtenstein | 92. Swaziland |
| 21. China | 58. Luxembourg | 93. Sweden |
| 22. Congo | 59. Madagascar | 94. Switzerland |
| 23. Cote d'Ivoire | 60. Malawi | 95. Togo |
| 24. Croatia | 61. Malaysia | 96. Trinidad and Tobago |
| 25. Cuba | 62. Mali | 97. Tunisia |
| 26. Cyprus | 63. Malta | 98. Turkey |
| 27. Czech Republic | 64. Mauritania | 99. Uganda |
| 28. Democratic People's
Republic of | 65. Mauritius | 100. Ukraine |
| korea | 66. Mexico | 101. United Kingdom |
| 29. Denmark | 67. Monaco | 102. United Republic of |
| 30. Egypt | 68. Mongolia | Tanzania |
| 31. Finland | 69. Morocco | 103. United States of |
| 32. France | 70. Netherlands | America |
| 33. Gabon | 71. New Zealand | 104. Uruguay |
| 34. Gambia | 72. Niger | 105. Uzbekistan |
| 35. Germany | 73. Norway | 106. Viet Nam |
| 36. Ghana | 74. Philippines | 107. Yugoslavia |
| | 75. Poland | 108. Zaire |

37. Greece

109. Zimbabwe

SECOND SCHEDULE

(Paragraph 3)

DEPENDENCIES OF CONVENTION COUNTRIES

1. <i>Dependency</i>	<i>Convention Country</i>
(a) Norfolk Island	Australia
(b) Faroe-Islands	Denmark
(c) Departments of Guyane, Guadeloupe, Martinique and Reunion and the overseas territories of New Caledonia, French Polynesia, St. Pierre and Miquelon, Wallis and Futuna Islands and the French Southern and Antarctic Territories	France
(d) Hong Kong and Isle of Man	United Kingdom
(e) Cook Islands, Niue and Tokelau	New Zealand
(f) Surinam and the Netherlands Antilles	Netherlands
(g) Puerto Rico and all other territories and possessions of the United States of America	United States of America
2. All other territories not included under (1) of this Schedule and which are dependencies of the convention countries named in the First Schedule.	

**SECTION 3-THE PATENT OFFICE
(ESTABLISHMENT) ORDER
Order by the Minister**

***Statutory
Instrument
325 of
1968***

1. This Order may be cited as the Patent Office (Establishment) Order. Title
2. The Patent Office is hereby established at the place described in the Schedule. Establishment of Patent Office

SCHEDULE
(Paragraph 2)

**The Fourth Floor of the old Bank of Zambia
Building situated at plot no. 9-10 Cairo Road,
Lusaka.**

THE PATENTS REGULATIONS [ARRANGEMENT OF REGULATIONS]

PART I PRELIMINARY

Regulation

1. Title
2. Interpretation

PART II APPLICATION FOR PATENTS AND SPECIFICATIONS

3. Appropriate application forms to be used
4. Assignee or legal representative to establish right to act
5. Cognate application
6. Division of application if not cognate
7. Evidence in support of convention application
8. Division of convention application
9. Extension of period for lodging complete specification
10. Request for post-dating an application

PART III DRAWINGS

11. When supplied, drawings to accompany specification
12. Drawing paper
13. Size of sheets, etc.

14. Preparation of drawings
15. Identification of drawings
16. Descriptive matter
17. Drawings not to be creased
18. Drawings lodged with provisional specification

PART IV

EXAMINATION OF APPLICATIONS AND ACCEPTANCE OF COMPLETE SPECIFICATIONS

19. Examination procedure under section 16
 20. Extension of time under section 20
- Regulation
21. Extension of time under section 21
 22. Publication of acceptance
 23. Inspection of application, specification and drawings

PART V

OPPOSITION TO GRANT OF PATENT

24. Notice of opposition
25. Counter-statement
26. Filing of evidence by objector
27. Filing of evidence by applicant
28. Extension of time under regulations 25, 26 and 27
29. Proof of service of notices, statements, etc.

- 30. Supply of documents, etc., to High Court

PART VI

SUBSTITUTION OF APPLICANTS, ETC.

- 31. Procedure under subsection (1) of section 23
- 32. Procedure under subsection (5) of section 23

PART VII

SEALING AND FORM OF PATENT AND RENEWAL FEES

- 33. Request for sealing
- 34. Time for sealing under subsection (2) of section 25
- 35. Form of patent
- 36. Amendment of patent
- 37. Payment of renewal fees
- 38. Renewal fees may be paid in advance
- 39. Extension of time for payment
- 40. Certificate of payment

PART VIII

RESTORATION OF LAPSED PATENTS

- 41. Application
- 42. Notice of opposition
- 43. Hearing

PART IX

VOLUNTARY ENDORSEMENT OF PATENTS "LICENCES OF RIGHTS"

Regulation

- 44. Application under subsection (1) of section 35
- 45. Application under subsection (2) of section 35
- 46. Advertisement of endorsement
- 47. Cancellation of endorsement under subsection (1) of section 36
- 48. Cancellation of endorsement under subsection (2) of section 36
- 49. Advertisement and opposition

PART X COMPULSORY LICENCES

- 50. Application under section 37
- 51. Preliminary consideration by Registrar
- 52. Opposition
- 53. Supply of documents, etc., to High Court

PART XI AMENDMENT OF SPECIFICATION

- 54. Application to amend unaccepted specification
- 55. Application to amend accepted complete specification
- 56. Certified copy of original specification to accompany application
- 57. Opposition
- 58. New specification and drawings as amended may be required

PART XII

DIRECTIONS TO CO-OWNERS

- 59. Application under subsection (6) of section 47
- 60. Application under subsection (7) of section 47

PART XIII

DISPUTES AS TO INVENTIONS MADE BY EMPLOYEES

- 61. Application under subsection (1) of section 48
- 62. Hearing

PART XIV

SURRENDER OF PATENT

Regulation

- 63. Form of offer to surrender a patent
- 64. Opposition

PART XV

REGISTER OF PATENTS

- 65. Register to record grant of patents
- 66. Alteration of entries
- 67. Registration of assignments, etc.
- 68. Copies of documents
- 69. Correction of errors
- 70. Advertisement
- 71. Opposition
- 72. Certified copies of entries, etc.

73. Lost patents

PART XVI

PATENT AGENTS

74. Application for registration

PART XVII

MISCELLANEOUS

75. Prescribed fees
76. Prescribed forms
77. Size, etc., of documents
78. Address for service
79. Method and proof of service
80. Lodging of documents
81. Power of Registrar to fix time and place of proceedings
82. Agency
83. Refusal to recognise agent
84. Signature of documents
85. Amendment of documents

Regulation

86. Power of Registrar to waive requirements
87. Order of High Court or Supreme Court
88. Days and hours of business

FIRST SCHEDULE-Fees payable to the Office

SECOND SCHEDULE-Form of patent

THIRD SCHEDULE-Prescribed forms

SECTION 96-THE PATENTS REGULATIONS

Federal

Regulations by the Minister

Government Notices

251 of 1957

206 of 1959

55 of 1960

363 of 1960

203 of 1962

*Act 57 of
1964*

Statutory Instruments

497 of 1964

38 of 1981

147 of 1990

54 of 1995

Act No.

13 of 1994

PART I

PRELIMINARY

1. These Regulations may be cited as the Patents Regulations.

Title

2. In these Regulations, unless the context otherwise requires-

Interpretation

"agent" means a patent agent registered as such in terms of section *sixty-eight*, and includes a legal practitioner;

"Office" means the Patent Office;

"section" means a section of the Act;

"Court" means the High Court

PART II

APPLICATION FOR PATENTS AND SPECIFICATIONS

3. (1) An application, other than a convention application, shall be made in Form No. 1.

Appropriate
application
forms to be
used

(2) A convention application shall be made in Form No. 2.

(3) An application for a patent of addition shall be made in Form No. 3.

(4) An application in terms of subsection (2) of section *thirty-one* for the grant of a patent of addition instead of an independent patent shall be made in Form No. 4.

(5) Every application (other than a convention application) shall be accompanied by either a provisional specification in duplicate in Form No. 5 or a complete specification shall be accompanied in Form No. 6; and every convention application shall be accompanied by a complete specification in duplicate in Form No. 6.

4. An application for a patent by an assignee or the legal representative of a person who was the owner of an invention when he died shall be accompanied by the deed of assignment or the probate of the will of the deceased or the letters of administration, as the case may be, or a certified copy thereof, and such further evidence and proof of the applicant's title as the Registrar may require.

Assignee or
legal
representative
to establish
right to act

5. Where, in pursuance of subsection (3) of section *thirteen*, the Registrar allows a single complete specification to be proceeded with in respect of two or more applications in respect of which two or more complete specifications have been lodged, the single complete specification may include any matter disclosed in any of the said specifications and shall be deemed to have been lodged on such date, not earlier than the earliest date on which all the matter disclosed in the said single complete specification has been disclosed to the Office in or in

Cognate
application

connection with the applications, as the Registrar may direct.

6. Where a complete specification has been lodged pursuant to two or more applications accompanied by provisional specifications for inventions which the applicant believes to be cognate or modifications one of another and the Registrar is of the opinion that such inventions are not cognate or modifications one of another, the Registrar may allow the complete specification to be divided into such number of complete specifications as may be necessary to enable the applications to be proceeded with as two or more separate applications for patents.

Division of application if not cognate

7. (1) In addition to the specification lodged with every convention application, there shall be lodged with the application, or within six months thereafter, a copy of the specification and drawings or documents lodged in respect of the relevant first application or applications for protection in a convention country, duly certified by the official chief or head of the patent office of the convention country, or otherwise verified to the satisfaction of the Registrar.

Evidence in support of convention application

(2) If any specification or other document relating to the application is in a foreign language, it shall be accompanied by a translation thereof in the English language verified to the satisfaction of the Registrar.

8. Where a single convention application has been made in respect of all or part of the inventions in respect of which two or more applications for protection have been made in one or more convention countries, the Registrar may, if he is satisfied that the claims of the specification lodged with the said convention application relate to more than one invention, allow one or more further applications to be lodged and the specification to be divided into such number of specifications as may be necessary to enable two or more separate convention applications to be proceeded with, and may direct that the said applications be deemed to have been lodged on the date of lodging of the original application.

Division of convention application

9. A request in terms of subsection (2) of section *thirteen* for an extension of time for lodging a complete specification shall be made in Form No. 7.

Extension of period for lodging complete specification

10. A request in terms of subsection (1) of section *seventeen* for the post-dating of an application shall be made in Form No. 8.

Request for
post-dating an
application

PART III

DRAWINGS

11. Drawings, when supplied, shall accompany the provisional or complete specification to which they refer, except in the case provided for by regulation 18. A true copy of the original drawings shall be lodged at the same time as the original drawings.

When supplied,
drawings to
accompany
specification

12. (1) Drawings shall be made on pure white tough drawing paper, not thinner than 100 sheets to the inch, of smooth surface and good quality, and without colour or washes, in such a way as to admit of being clearly reproduced on a reduced scale by photography.

Drawing paper

(2) Mounted drawings may not be used.

13. (1) Drawings shall be on sheets which measure 13 inches from top to bottom and are either 8 inches or 16 inches wide, and shall be made on one side of the paper only and have 1 1/2 inches clear binding margin on the left-hand side of the sheet and a 1/2 inch clear margin on the top, bottom and right-hand side of the sheet.

Size of sheets,
etc.

(2) If there are more figures than can be shown on one of the smaller sized sheets, two or more of these sheets shall be used unless the large size is required by the size of any one figure.

(3) An exceptionally large figure may be continued on subsequent sheets.

(4) No more sheets shall be employed than are necessary.

(5) The figures shall be numbered consecutively without regard to the number of sheets, and shall as far as possible be arranged in numerical order, separated by a sufficient space to keep them distinct.

(6) Where figures on a number of sheets form in effect a single complete figure, they shall be so arranged that the complete figure can be assembled without concealing any part of another figure.

14. Drawings shall be prepared in accordance with the following requirements:

Preparation of drawings

- (a) they shall be executed in durable black or very dark markings;
- (b) each line shall be firmly and evenly drawn, sharply defined, and of the same strength throughout;
- (c) section lines, lines for effect, and shading lines shall be as few as possible, and shall not be closely drawn;
- (d) shading lines shall not contrast excessively in thickness with the general lines of the drawing;
- (e) sections and shading shall not be represented by solid black or washes;
- (f) they shall be on a scale sufficiently large to show the invention clearly, and only so much of the apparatus, machine or article may appear as effects this purpose;
- (g) if the scale is given, it shall be drawn and not denoted by words, and no dimensions may be marked on the drawings;
- (h) where convenient, the figures shall be drawn in an upright position in regard to the top and bottom of the sheet;
- (i) subject to any special directions of the Registrar in any particular case, reference letters and numerals and index letters and numerals used in conjunction therewith shall be bold, distinct and not less than 1/8 inch in height; the same letters or numerals shall be used in different views of the same parts; and where the reference letters or numerals are shown outside the parts referred to, they shall be connected with the said parts by fine lines.

15. (1) Drawings shall bear-

Identification of drawings

- (a) in the left-hand top corner the name of the applicant and, in the

case of drawings lodged with a complete specification after one or more provisional specifications, the numbers and years of the applications;

(b) in the right-hand top corner the number of sheets of drawings sent and the consecutive number of each sheet, and the words "original" or "true copy", as the case may require;

(c) in the right-hand bottom corner the signature of the applicant or his agent.

(2) The title of the invention shall not appear on the drawings.

16. (1) No descriptive matter shall appear on constructional drawings, but drawings in the nature of flow sheets may bear descriptive matter to show the materials used and the chemical or other reactions or treatments effected in carrying out the invention.

Descriptive
matter

(2) Drawings showing a number of instruments or units of apparatus and their interconnections, either mechanical or electrical, where each such instrument or unit is shown only symbolically, may bear such descriptive matter as is necessary to identify the instruments or units or their interconnections.

(3) Such descriptive matter shall be in black or very dark markings on both the original and the true copy drawings and on the latter the letters shall be not less than 1/4 inch in height.

(4) No drawing or sketch, other than a graphic chemical formula or a mathematical formula, symbol or equation, shall appear in the verbal part of the specification and if such a formula, symbol or equation is used therein a copy thereof, prepared in the same manner as original drawings, except that it may be a hand-made drawing on tracing-cloth, shall be furnished if the Registrar so directs.

17. Drawings shall be delivered at the Office free from folds, breaks or creases which would render them unsuitable for reproduction by photography.

Drawings not to
be creased

18. If an applicant desires to adopt the drawings lodged with his

Drawings

provisional specification as the drawings or part of the drawings for his complete specification, he shall refer to them in the complete specification as those lodged with the provisional specification.

lodged with
provisional
specification

PART IV

EXAMINATION OF APPLICATIONS AND ACCEPTANCE OF COMPLETE SPECIFICATIONS

19. (1) When the Registrar, in making the investigation under section *sixteen*, finds that the application or specification does not comply with the requirements of subsection (1), the Registrar may refuse to accept the application or require the application or the specification which accompanied it to be amended in such manner as may be necessary.

Examination
procedure under
section 16

(2) The Registrar may appoint a hearing if he considers it desirable to do so, having regard to the time remaining for putting the application in order or other circumstances of the case.

(3) When a hearing is appointed, the applicant shall be given fourteen days' notice of the appointment or such shorter notice as appears to the Registrar to be reasonable in the circumstances and shall as soon as possible notify the Registrar whether he will attend the hearing.

(4) After hearing the applicant, or without a hearing if the applicant has not attended or has notified that he does not desire to be heard, the Registrar may direct or permit such amendment of the specification as will be to his satisfaction, and may refuse to accept the specification unless such amendment is made within such period as he may fix.

20. An application under section *twenty* for extension of time for accepting a complete specification shall be given in Form No. 9.

Extension of
time under
section 20

21. A notice under the proviso to subsection (1) of section *twenty-one* requesting postponement of the acceptance of a complete specification to a date, not being later than eighteen months from the date of lodging of the application, shall be given in Form No. 10.

Extension of
time under
section 21

22. (1) When notice of acceptance of a complete specification has been given by the Registrar in terms of subsection (2) of section *twenty-one*, the applicant shall advertise the acceptance in the *Patent Journal* within one month of the date of such acceptance or within such further time as the Registrar may allow.

Publication of
acceptance

(2) At any time prior to the publication of the acceptance of a complete specification the Registrar may, if he thinks fit, on application made in Form No. 11, cancel such acceptance.

(As amended by F.G.N. No. 55 of 1960)

23. The fee for inspecting an application, specification and drawings shall be as set out in item 49 of the First Schedule.

Inspection of
application,
specification
and drawings

PART V

OPPOSITION TO GRANT OF PATENT

24. A notice of opposition to the grant of a patent shall be given in Form No. 12.

Notice of
opposition

25. The period within which a counter-statement may be lodged by the applicant shall be two months from the date of receipt by him of the notice of opposition. If such counter-statement is not lodged within the said period or within such further period as the Registrar may allow, the application shall be deemed to be abandoned.

Counter-statement

- | | |
|---|--|
| <p>26. The objector may, within two months from the receipt of the copy of the counter-statement, file evidence in accordance with the provisions of section <i>sixty-five</i> in support of his case and shall serve on the applicant a copy thereof.</p> | <p>Filing of evidence by objector</p> |
| <p>27. Within two months from the receipt of the copy of the objector's evidence or, if the objector does not file any evidence, within two months from the expiration of the time within which the objector's evidence might have been filed, the applicant may file evidence in accordance with the provisions of section <i>sixty-five</i> in support of his case and shall serve on the objector a copy of the evidence; and within two months from the receipt of the copy of the applicant's evidence, the objector may file evidence confined to matters strictly in reply and shall serve on the applicant a copy of the evidence.</p> | <p>Filing of evidence by applicant</p> |
| <p>28. The Registrar may extend the periods mentioned in regulations 25, 26 and 27 if a request in writing for such extension is made at any time within the said periods or extended periods.</p> | <p>Extension of time under regulations 25, 26 and 27</p> |
| <p>29. Proof of service of all notices, statements or other documents referred to in these Regulations shall be furnished to the Registrar.</p> | <p>Proof of service of notices, statements, etc.</p> |
| <p>30. (1) When the foregoing provisions of this Part have been complied with, the Registrar shall hand all relevant papers to the registrar of the High Court.</p> | <p>Supply of documents, etc., to High Court</p> |
| <p>(2) Copies of all documents, other than specifications, referred to in the notice of opposition or in any statement or evidence filed in connection with the opposition shall be furnished for the use High Court, unless the High Court otherwise directs.</p> | |

PART VI

SUBSTITUTION OF

APPLICANTS, ETC.

31. (1) A claim under subsection (1) of section *twenty-three* that an application for a patent shall proceed in the name of the claimant or in the names of the claimant and the applicant or the other joint applicant or applicants shall be made in Form No. 13 and shall be accompanied by a copy of any assignment or agreement upon which the claim is based, which copy shall be certified by the claimant, the applicant or the agent of either of them, as the case may be.

Procedure
under
subsection (1)
of section 23

(2) If so required by the Registrar, the original assignment or agreement shall also be produced for his inspection and he may also call for such other proof of title or written consent as he may require.

32. (1) An application under subsection (5) of section *twenty-three* by any party to a joint application for the directions of the Registrar as to the name of the party, or the manner in which an application for a patent shall be proceeded with, shall be made in Form No. 14 and shall be accompanied by a statement setting out fully the facts upon which the applicant relies and the directions which he seeks.

Procedure
under
subsection (5)
of section 23

(2) A copy of the application and statement shall be sent by the Registrar to each other joint applicant (the applicant shall supply a sufficient number of copies for that purpose) and thereafter the Registrar shall appoint a time for the hearing of the case and shall give the parties at least fourteen days' notice of the appointment.

(3) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall in accordance with the provisions of subsection (5) of section *twenty-three* give directions as he thinks fit for enabling the application to proceed in the name of one or more of the parties or for regulating the manner in which it shall be proceeded with or for both those purposes, according as the case may require.

PART VII

SEALING AND FORM OF PATENT AND RENEWAL FEES

- 33.** An application for the sealing of a patent shall be made in Form No. 15. Request for sealing
- 34.** (1) An application for an extension of time under proviso (iv) to subsection (2) of section *twenty-five* shall be made in Form No. 16 and the period of extension shall not exceed three months. Time for sealing under subsection (2) of section 25
- (2) An application under proviso (v) to subsection (2) of section *twenty-five* for a further extension of time shall be made in Form No. 17.
- 35.** A patent shall be in the form set out in the Second Schedule or in such form modified as directed by the Registrar to meet the circumstances. Form of patent
- 36.** An application under section *twenty-six* for the amendment of a patent shall be made in Form No. 18 and shall be accompanied by evidence verifying the statements therein and by the letters patent. Amendment of patent
- 37.** If it is desired at the expiration of the third year of the term of a patent or of any succeeding year during the term of the patent to keep the patent in force, the renewal fees set out in item 18 of the First Schedule shall be paid by lodging Form No. 19 before the expiration of that year: Payment of renewal fees

Provided that where the sealing of the patent is delayed beyond the periods set out herein, by reason of opposition or the application having been kept secret or an extension under proviso (v) to subsection (2) of section *twenty-five* having been granted, the renewal fees may be paid at the time the patent is sealed. The Registrar may in his discretion grant an extension of time not exceeding six months from the date of sealing for payment of such fees.

(As amended by F.G.N. No. 206 of 1959
and F.G.N. No. 363 of 1960)

- | | |
|--|--|
| <p>38. All or any of the prescribed renewal fees may be paid in advance.</p> | <p>Renewal fees may be paid in advance</p> |
| <p>39. An application for extension of time for payment of any renewal fee shall be made in Form No. 20.</p> | <p>Extension of time for payment</p> |
| <p>40. On due compliance with the terms of regulation 37, the Registrar shall issue a certificate in Form No. 21 that the prescribed fee has been duly paid, and he shall cause to be entered in the register the fact that the fee has been paid and the date of payment as stated on the certificate.</p> | <p>Certificate of payment</p> |

PART VIII

RESTORATION OF LAPSED PATENTS

- | | |
|---|--------------------|
| <p>41. (1) An application under section <i>thirty-three</i> for the restoration of a patent shall be made in Form No. 22 and shall be accompanied by evidence by affidavit in support of the statements made in the application.</p> | <p>Application</p> |
|---|--------------------|

(2) The Registrar shall direct the patentee to advertise the application (if in compliance with subsection (2) of section *thirty-three*) in two consecutive issues of the *Patent Journal* .

(As amended by F.G.N. No. 206 of 1959 and F.G.N. No. 55 of 1960)

- | | |
|---|-----------------------------|
| <p>42. (1) At any time within two months of the advertisement of the application, any person may give notice of opposition thereto in Form No. 23.</p> | <p>Notice of opposition</p> |
|---|-----------------------------|

(2) Such notice shall be accompanied by a copy thereof together with a statement, in duplicate, setting out fully the nature of the objector's

interest and the facts upon which he relies.

(3) Upon notice of opposition being given, the provisions of regulation 25 to 29 shall *mutatis mutandis* apply in respect of the proceedings held before the Registrar under section *thirty-three*.

43. (1) On completion of the evidence (if any), or at such other time as the Registrar may see fit, the Registrar shall appoint a time for the hearing of the application and shall give the parties at least fourteen days' notice of the appointment. Hearing

(2) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall decide the matter and notify his decision to the parties.

PART IX

VOLUNTARY ENDORSEMENT OF PATENTS "LICENCES OF RIGHT"

44. An application under subsection (1) of section *thirty-five* for endorsement of a patent "licences of right" shall be made in Form No. 24 and shall be accompanied by evidence verifying the statement in the application and by the letters patent. Application under subsection (1) of section 35

45. (1) An application under paragraph (a) or (b) of subsection (2) of section *thirty-five* for settlement of the terms of a licence under a patent endorsed "licences of right" shall be made in Form No. 25 and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the facts upon which the applicant relies and the terms of the licence which he is prepared to accept or grant. Application under subsection (2) of section 35

(2) A copy of the application and statement shall be sent by the Registrar to the patentee or the person requiring a licence, as the case

may be, who, if he does not agree to the terms set out in the statement, shall within two months of the receipt of such copies file a counter-statement setting out fully the grounds of the objection and serve a copy thereof on the applicant.

(3) The Registrar shall give such directions as he may think fit with regard to the filing of evidence and the hearing of the parties.

46. Upon the endorsement of a patent in terms of section *thirty-five*, the Registrar shall direct the applicant to publish notification thereof forthwith in the *Patent Journal*. Advertisment of endorsement

(As amended by F.G.N. No. 55 of 1960)

47. An application under subsection (1) of section *thirty-six* for the cancellation of an endorsement shall be made in Form No. 26 and shall be accompanied by evidence verifying the statement in the application and by a memorandum in Form No. 19 with fees to the amount of the balance of all renewal fees which would have been payable if the patent had not been endorsed. Cancellation of endorsement under subsection (1) of section 36

48. (1) An application under subsection (2) of section *thirty-six* for the cancellation of an endorsement shall be made in Form No. 27 within six months after the patent has been endorsed and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the nature of the applicant's interest and the facts upon which he relies. Cancellation of endorsement under subsection (2) of section 36

(2) The period within which renewal fees shall be paid on cancellation of an endorsement in terms of subsection (3) of section *thirty-six* shall be one month from the date of cancellation.

49. (1) Every application under subsection (1) or (2) of section *thirty-six* shall be advertised by the applicant in the *Patent Journal* and the period within which notice of opposition to the cancellation of an endorsement may be given under subsection (5) of section *thirty-six* shall be two months after the advertisement. Advertisment and opposition

(2) Such notice shall be given in Form No. 28 and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the facts upon which the opponent relies, and, in the case of opposition to an

application under subsection (1) of section *thirty-six*, the nature of his interest.

(3) A copy of the notice and of the statement shall be sent by the Registrar to the applicant for cancellation of the endorsement and thereafter the Registrar shall appoint a time for the hearing of the application and shall give the parties at least fourteen days' notice of the appointment.

(4) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall give such decision on the application as he may consider just.

(As amended by F.G.N. No. 55 of 1960)

PART X

COMPULSORY LICENCES

50. An application under section *thirty-seven* for a licence under a patent shall be made in Form No. 29.

Application
under section
37

51. (1) If upon consideration of the evidence the Registrar is satisfied that the application falls within section *thirty-seven*, he shall direct the applicant to serve copies of the application and of the relevant affidavit upon the patentee and upon any other person appearing from the register to be interested in the patent and to advertise the application in one issue of the *Patent Journal* in such form as he may approve.

Preliminary
consideration
by Registrar

(2) If the Registrar is not so satisfied, he shall notify the applicant accordingly and, unless within one month the applicant requests to be heard in the matter, the Registrar shall refuse the application.

(As amended by F.G.N. No. 55 of 1960)

52. (1) At any time within two months from the date of the advertisement, or within such further time as the Registrar may allow,

Opposition

the patentee or any other person who wishes to oppose the application shall deliver to the Registrar a counter-statement, verified by affidavit, setting out fully the grounds on which the application is opposed, and shall at the same time serve upon the applicant a copy of the counter-statement and of such affidavit.

(2) Proof of service shall be furnished to the satisfaction of the Registrar.

53. When the foregoing provisions of this Part have been complied with, the Registrar shall hand all relevant papers to the registrar of the High Court.

Supply of documents, etc., to High Court

PART XI

AMENDMENT OF SPECIFICATION

54. (1) An application for leave to amend a provisional specification or a complete specification which has not been accepted, except when the amendment is made to meet an objection by the Registrar, shall be made in Form No. 30.

Application to amend unaccepted specification

(2) The Registrar shall, if he thinks fit, appoint a time for a hearing of the application and shall give the applicant at least twenty-one days' notice of such appointment. If the applicant desires to be heard he must, not later than seven days prior to the date of the hearing or within such further time as the Registrar may allow, notify the Registrar to that effect.

(3) After hearing the applicant or, if the applicant does not desire to be heard, then without a hearing, the Registrar shall decide the case and notify his decision to the applicant.

55. An application for leave to amend an accepted complete specification shall be made in Form No. 31 and the application and the

Application to amend accepted

nature of the proposed amendment shall be advertised by the applicant in the *Patent Journal* in the manner provided for in Form No. 32. complete specification

(As amended by F.G.N. No. 55 of 1960)

56. An application for leave to amend a specification shall be accompanied by a copy, certified by the applicant or his agent, of the original specification, or of those pages of specification or drawings in which the proposed amendment appears, clearly showing in red ink the amendment sought. Certified copy of original specification to accompany application

57. (1) Any person wishing to oppose an application for amendment under regulation 55 shall give notice to the Registrar in Form No. 33. Opposition

(2) Such notice shall be accompanied by a statement setting out fully the nature of the objector's interest, the facts upon which he relies and the relief he seeks.

(3) A copy of the notice and of any statement which accompanies such notice shall be served by the objector on the applicant.

(4) Upon notice of opposition being given, the provisions of regulations 25 to 29 and of regulation 43 shall *mutatis mutandis* apply in respect of the proceedings hold before the Registrar under section *forty-three*.

58. (1) When leave to amend a specification is given the applicant shall, if the Registrar so requires and within a time to be fixed by him, lodge a new specification and drawings as amended. New specification and drawings as amended may be required

(2) Where an application for leave to amend a specification is made pursuant to an order of the High Court, such application shall be accompanied by a copy of such order certified by the registrar of or the High Court the Supreme Court, as the case may be.

PART XII

DIRECTIONS TO CO-OWNERS

59. (1) An application for directions under subsection (6) of section *forty-seven* by any one or more of the proprietors of a patent shall be made in Form No. 34 and shall be accompanied by a statement setting out fully the facts upon which the applicant relies and the directions which he seeks.

Application
under
subsection (6)
of section 47

(2) A copy of the application and of the statement shall be sent by the Registrar to each of the other proprietors of the patent, and the applicant shall supply a sufficient number of copies for that purpose.

(3) Thereafter the Registrar shall appoint a time for the hearing of the case and shall give the parties at least fourteen days' notice of the appointment.

(4) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall give directions in accordance with the provisions of subsection (6) of section *forty-seven*.

60. (1) An application for directions under subsection (7) of section *forty-seven* shall be made in Form No. 35 and shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the facts upon which the applicant relies and the directions which he seeks.

Application
under
subsection (7)
of section 47

(2) A copy of the application and of the statement shall be sent by the Registrar to the person in default.

(3) Thereafter the provisions of sub-regulations (3) and (4) of regulation 59 shall apply.

PART XIII

DISPUTES AS TO INVENTIONS MADE BY EMPLOYEES

61. (1) An application under subsection (1) of section *forty-eight* to determine a dispute as to rights in respect of an invention or in respect of a patent granted or to be granted in respect thereof shall be made in Form No. 36 and shall be accompanied by a copy thereof together with a statement, in duplicate, setting out fully the facts of the dispute and the relief which is sought.

Application
under
subsection (1)
of section 48

(2) A copy of the application and of the statement shall be sent by the Registrar to the other party to the dispute, who within three months after receipt thereof shall file a counter-statement, in duplicate, setting out fully the grounds on which he disputes the right of the applicant to the relief sought.

(3) The Registrar shall send a copy of this counter-statement to the applicant and thereafter, subject to such directions as the Registrar may think fit to give, the provisions of regulations 26 to 29 shall *mutatis mutandis* apply in respect of proceedings held before the Registrar, and references to the objector shall be substituted for references to the applicant and references to the applicant for references to the other party.

62. (1) Should the Registrar decide to hear the application, he shall thereafter appoint a time for the hearing and shall give the parties at least fourteen days' notice of the appointment.

Hearing

(2) After hearing the party or parties desiring to be heard or, if none of the parties desires to be heard, then without a hearing, the Registrar shall determine the matter in dispute and make such orders for giving effect to his decision as he considers expedient.

PART XIV

SURRENDER OF PATENT

63. A notice of an offer by a patentee under section *fifty-two* to surrender his patent shall be given in Form No. 37 and shall be advertised by the patentee in one issue of the *Patent Journal* .

Form of offer to
surrender a
patent

(As amended by F.G.N. No. 55 of 1960)

64. (1) At any time within two months from such advertisement, any person may give notice of opposition to the Registrar in Form No. 38, which shall be accompanied by a copy thereof and a statement, in duplicate, setting out fully the nature of the opponent's interest, the facts upon which he relies and the relief which he seeks.

Opposition

(2) A copy of the notice and of the statement shall be sent by the Registrar to the patentee.

(3) Upon such notice of opposition being given and a copy thereof sent to the patentee, the provisions of regulations 25 to 29 and of regulation 43 shall *mutatis mutandis* apply and references to the patentee shall be substituted for references to the applicant.

PART XV

REGISTER OF PATENTS

65. (1) In addition to the particulars referred to in the Act, the Registrar shall cause to be entered in the register the name, address and nationality of the patentee as the grantee thereof, the title of the invention, the date of the patent and the date of the sealing thereof, together with the full postal address for service.

Register to
record grant of
patents

(2) The Registrar may at any time enter in the register such other particulars as he may deem necessary.

66. (1) A request by a patentee for the alteration of a name, nationality, address, or address for service entered in the register in respect of his patent shall be made in Form No. 39.

Alteration of entries

(2) Before acting on a request to alter a name or nationality, the Registrar may require such proof of the alteration as he may think fit.

(3) If the Registrar is satisfied that the request may be allowed, he shall cause the register to be altered accordingly.

67. (1) An application for the registration of the title of any person becoming entitled by assignment to a patent or to a share in a patent shall be made in Form No. 40 by the person becoming so entitled.

Registration of assignments, etc.

(2) Application may be made in Form No. 41 for entry in the register of notification of an interest by way of mortgage, licence or otherwise.

68. (1) A copy of any document which is referred to in an application under regulation 67, duly certified to the satisfaction of the Registrar, shall be produced to the Registrar with the application.

Copies of documents

(2) Unless the Registrar otherwise directs, the original of any other document so referred to shall be produced to him with the application, and a certified copy of any such document shall be lodged therewith, and such original document shall be returned to the person who produced it.

69. A request under section *fifty-nine* for the correction of a mistake in the register, in any patent, or application for a patent or any document lodged in pursuance of such application, or in proceedings in connection with any patent, shall be made in Form No. 42.

Correction of errors

70. Where the Registrar requires notice of the nature of the proposed correction to be advertised in terms of subsection (4) of section *fifty-nine*, the advertisement shall be made by publication in the *Patent Journal* of the request and the nature of the proposed correction.

Advertisement

(As amended by F.G.N. No. 55 of 1960)

71. (1) Where such application is advertised in terms of regulation 70, notice of opposition may at any time within two months from the date of publication be given in Form No. 43. Opposition

(2) Upon notice of opposition being given, the provisions of regulations 25 to 29 and of regulation 43 shall *mutatis mutandis* apply in respect of the proceedings held before the Registrar under section *fifty-nine*.

72. Copies of any entry in the register, or copies of, or extracts from, patents, specifications and other public documents in the Office, or of or from registers and other records kept there, certified by the Registrar, may be furnished by the Registrar on payment of the fees prescribed in the First Schedule. Certified copies of entries, etc.

73. An application under section *sixty-three* for a further patent to be sealed shall be made in Form No. 44 and shall be accompanied by evidence setting out fully and verifying the circumstances in which the patent was lost or destroyed or cannot be produced. Lost patents

PART XVI

PATENT AGENTS

74. An application to be registered as a patent agent in terms of subsection (2) of section *sixty-eight* shall be- Application for registration

(a) made by affidavit on Form No. 45 sworn before a commissioner for oaths;

(b) accompanied by-

(i) documentary proof that the applicant is entitled to be registered;

(ii) the appropriate fee.

(F.G.N. No. 203 of 1962)

PART XVII

MISCELLANEOUS

75. The fees to be paid in respect of the grant of patents and applications therefor and in respect of other matters relating to patents arising under the Act shall be those prescribed in the First Schedule. Prescribed fees

76. The forms set out in the Third Schedule shall be used in all cases to which they are applicable and may be modified as directed by the Registrar. Prescribed forms

77. (1) All documents and copies of documents, except drawings, lodged at the Office shall, unless the Registrar otherwise directs, be written, typewritten, lithographed or printed in the English language- Size, etc., of documents

(a) upon strong white paper of a size approximately 13 inches by 8 inches, leaving a margin of at least 1 1/2 inches on the left-hand part thereof;

(b) in legible characters with a dark, indelible ink;

(c) with the lines widely spaced;

(d) except in the case of affidavits, on one side only.

(2) Duplicates of any documents shall at any time be lodged, if required by the Registrar.

(3) Duplicate documents required under these Regulations may be carbon copies of the original documents:

Provided that they shall be on paper of good quality and the typing shall be black and distinct.

<p>78. Every person concerned in any proceedings to which these Regulations relate, and every patentee, shall furnish to the Registrar an address for service in Zambia and that address may be treated for all purposes connected with such proceedings or patent as the address of the person concerned in the proceedings or the patentee.</p>	<p>Address for service</p>
<p>79. (1) Where any notice, application or other document is required to be served on any person under the provisions of the Act, such service may be effected by the delivery of a copy thereof either-</p>	<p>Method and proof of service</p>
<p>(a) at the address for service furnished to the Registrar in terms of these Regulations; or</p>	
<p>(b) to such person personally, or to his duly authorised agent; or</p>	
<p>(c) at his residence or place of business or employment, to some responsible person there residing or employed.</p>	
<p>(2) Service effected by any person in accordance with the provisions of this regulation shall be proved by a certificate made in Form No. 46 and such certificate shall be filed with the Registrar.</p>	
<p>80. Any notice, application or other document sent to the Office by post shall not be deemed to have been given, made or lodged until it is actually received in the Office.</p>	<p>Lodging of documents</p>
<p>81. The Registrar may in any proceedings held before him decide the hours, times and places at which he will sit and he may adjourn any proceedings for such time and to such place as he may think fit.</p>	<p>Power of Registrar to fix time and place of proceedings</p>
<p>82. (1) Any application, request or notice which is required or permitted under this Act to be made or given to the Registrar, and all other communications between an applicant or a person making a request or giving a notice and the Registrar, and between the patentee and the Registrar or any other person, may be signed, made or given by or through an agent:</p>	<p>Agency</p>

Provided that the Registrar is satisfied that the agent has been duly authorised so to act on behalf of such applicant, person or patentee.

(2) No power of attorney or any form of authorisation need be filed at the Office or exhibited to the Registrar in connection with any matter or proceeding under these Regulations unless the Registrar otherwise directs.

83. The Registrar may refuse to recognise as agent in respect of any proceedings under this Act a person who neither resides nor maintains a place of business in Zambia.	Refusal to recognise agent
--	----------------------------

84. (1) A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and may be signed by a partner, or by any other person who satisfies the Registrar that he is authorised to sign the document.	Signature of documents
--	------------------------

(2) A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorised to sign the document.

85. Any document lodged in any proceedings before the Registrar may, if the Registrar thinks fit, be amended, and any irregularity in procedure may be rectified on such terms as he may direct.	Amendment of documents
---	------------------------

86. (1) Where, under these Regulations, any person is required to do any act or thing, or any document or evidence is required to be produced or lodged, the Registrar may, upon the production of such evidence and subject to such terms and conditions as he thinks fit, modify or dispense with the doing of the act or thing or the production or lodging of the document or evidence if he is satisfied that it is reasonable so to do.	Power of Registrar to waive requirements
--	--

(2) The Registrar may allow an application for a patent or a provisional or complete specification, although not in accordance with these Regulations, to be left on such terms and conditions as he thinks fit, modify or dispense with the doing of the act or thing or the production or lodging of the document or evidence if he is satisfied that it is reasonable so to do.

(2) The Registrar may allow an application for a patent or a provisional or complete specification, although not in accordance with these Regulations, to be left on such terms and conditions as he thinks fit. In any such case the Registrar shall require the applicant to comply with these Regulations within the time specified by him. Until the prescribed requirements are complied with, no further action shall be taken by the Registrar in respect of the application.

87. (1) Where an order relating to a patent has been made by the Supreme Court or by the High Court, the person in whose favour such order has been made shall forthwith file at the Office an office copy of such order together with an application in Form No. 47.

Order of
Supreme Court
or High Court

(2) The specification shall thereupon be amended or the register rectified or the purport of such order shall otherwise be duly entered in the register, as the case may be.

88. The Office shall be open to the public and the register shall be open to inspection on payment of the fee specified in item 47 of the First Schedule, every weekday, except Saturday, between the hours of nine and one, and two and half-past three; except on public holidays.

Days and hours
of business

FIRST SCHEDULE

(Regulation 75)

TARIFF OF FEES PAYABLE TO THE REGISTRAR OF PATENTS WITH EFFECT FROM 1ST MAY, 1995

The following fees shall be paid in respect of applications, registrations and other matters under the Act. Such fees must in all cases be paid before or at the time of doing the matter in respect of which they are to be paid.

<i>Item</i>	<i>Matter or Proceeding</i>	<i>Amount Payable by Local Firms, Corpora- tions and Individuals</i>	<i>Amount Payable by Foreign Firms, Corporations and Individuals</i>	<i>Corre- spond- ing Form No.</i>
		Fee units	US\$	
1.	On application for a patent (Non-convention)	20,0	100.00	1
2.	On convention application, in respect of each application for protection in a convention country	20,0	100.00	2
3.	On application for a patent of addition	20,0	100.00	3
4.	On application for grant of a patent of addition of an independent patent	40,0	150.00	4
5.	On lodging specification-			
(i)	provisional	5,0	10.00	5
(ii)	complete	10,0	15.00	6
6.	For extension of the period for lodging complete specification	2,0	5.00	7
7.	On request for post-dating of an application under section 17 (1)	2,0	5.00	8
8.	On request for extension of time under section 20, where the extension requested-			
(i)	does not exceed one month	2,0	5.00	9
(ii)	exceeds one month but does not exceed two months	4,0	10.00	9
(iii)	exceeds two months	12,0	20.00	9

9. For each extension of time under section 212,0	5,0	5.00	10
10. On application for withdrawal of acceptance	2,0	5.00	
11			
11. On notice of opposition to grant of patent by objector	5,0	7.00	12
12. On a claim under section 23 (1) for application to proceed in name of claimants	2,0	5.00	13
13. On application for directions under section 23 (5)	10,0	15.00	
14			
14. On request for sealing of a patent (grant and publication fee)	50,0	200.00	15
15. On application for extension of the period for requesting the sealing of a patent under paragraph (iv) of the proviso to section 25 (2), where the extension requested-			
(i) does not exceed one month	2,0	5.00	16
(ii) exceeds one month but does not exceed two months	4,0	10.00	16
(iii) exceeds two months	12,0	15.00	16
16. On application for extension of the period for requesting the sealing of a patent under paragraph (v) of the proviso to section 25 (2), where the extension requested-			
(i) does not exceed one month	2,0	5.00	17
(ii) exceeds one month-for each month after the first	2,0	5.00	17
17. On application under section 26 for amendment of patent	5,0	10.00	18
18. On application for certificate of payment of renewal fee-			
(i) before the expiration of the third year from the date of commencement of the term of a patent referred to in section 29 and in respect of the fourth year	5,0	50.00	19
(ii) before the expiration of the fourth year of the term of a patent and in respect of the fifth year	7,5	60.00	19
(iii) before the expiration of the fifth year of the term of a patent and in respect			

	of the sixth year	10,0	70.00	19
(iv)	before the expiration of the sixth year of the term of a patent and in respect of the seventh year	12,5	80.00	19
(v)	before the expiration of the seventh year of the term of a patent and in respect of the eighth year	15,0	90.00	19
(vi)	before the expiration of the eighth year of the term of a patent and in respect of the ninth year	17,5	100.00	19
(vii)	before the expiration of the ninth year of the term of a patent and in respect of the tenth year	20,0	110.00	19
(viii)	before the expiration of the tenth year of the term of a patent and in respect of the eleventh year	22,5	120.00	19
(ix)	before the expiration of the eleventh year of the term of a patent and in respect of the twelfth year	25,0	130.00	19
(x)	before the expiration of the twelfth year of the term of a patent and in respect of the thirteenth year	27,5	140.00	19
(xi)	before the expiration of the thirteenth year of the term of a patent and in respect of the fourteenth year	30,0	150.00	19
(xii)	before the expiration of the fourteenth year of the term of a patent and in respect of the fifteenth year	32,5	160.00	19
(xiii)	beyond the fifteenth year of the term of a patent and in respect of the sixteenth year	35,0	170.00	19
(xiv)	beyond the sixteenth year of the term of a patent and in respect of each year of the extension	37,5	180.00	19

PROVIDED THAT only one-half of the above fees
shall be payable on patents endorsed
"Licences of Right"

19. On extension of the period for payment of renewal
fees, where the extension requested-

(i)	does not exceed one month	2,0	5.00	19
(ii)	exceeds one month but does not exceed			

	two months	4,0	10.00	19
(iii)	exceeds two months but does not exceed three months	6,0	12.00	19
(iv)	exceeds three months but does not exceed four months	8,0	15.00	19
(v)	exceeds four months but does not exceed five months	10,0	20.00	19
(vi)	exceeds five months but does not exceed six months	12,0	22.00	19
	Where the extensions is for more than six months, the fee prescribed in clause (vi) is payable, and in addition, for each month or part of a month thereafter during the period of the extension	2,0	5.00	19
20.	Certificate of payment of renewal fee		-	-
21				
21.	On application for restoration of lapsed patent		25,0	50.00
21				
22.	On notice of opposition to application for restoration of lapsed patent	15,0	35.00	23
23.	On application for endorsement of patent "Licences of Right"	5,0	5.00	24
24.	On application for settlement of terms of licence under patent endorsed "Licences of Right"	10,0	20.00	25
25.	On application by patentee for cancellation of endorsement of patent "Licences of Right" (section 36 (1))	15,0	35.00	26
26.	On application for cancellation of endorsement of patent "Licences of Right" (section 36 (2))	5,0	10.00	27
27.	On notice of opposition to cancellation of endorsement of patent "Licences of Right"	5,0	10.00	28
28.	On application for compulsory licence under section 37	7,5	12.00	29
29.	On application for amendment of provisional specification or complete specification not yet accepted	10.0	20.00	30
30.	On application for amendment of complete specifications after acceptance up to sealing-			

(i) by applicant	10,0	20.00	
(ii) after sealing by patentee	20,0	40.00	31
31. Form of advertisement of request to amend specification	2,0	5.00	32
32. On notice of opposition to amendment by objector	3,0	6.50	33
33. On application for direction under 47 (6)	5,0	10.00	34
34. On application for direction under 47 (7)	5,0	10.00	35
35. On application under section 48 (1) to determine disputes	10,0	20.00	36
36. On offer to surrender a patent under section 52		6,0	11.50
37			
37. On notice of opposition to surrender a patent		2,0	5.00
38			
38. For altering name, nationality, address or address for service in register for each patent	2,0	5.00	39
39. On application for registration of an assignment under section 58	4,0	8.50	40
40. On request to enter notice of interest in register		4,0	8.50
41			
41. On request to correct a clerical error-			
(i) up to sealing	2,0	5.00	42
(ii) after sealing	5,0	10.00	42
42. On notice of opposition to the correction of a clerical error	7,5	16.50	43
43. For duplicate of patent	7,5	30.50	44
44. On application for registration as patent agent		5,0	10.00
45			
45. Certificate of service	2,0	5.00	46
46. Application for entry of order of court or tribunal		5,0	10.00
47			
47. General form of advertisementAs fixed by the Registrar from time to time			48
48. For certifying office copies, MSS., or photographic or printed matter other than duplicate patent-			
(i) under seal	10,0	20.00	

(ii)	other	5,0	10.00
49.	For general search of records of 30 minutes duration or part thereof	5,0	10.00
50.	For inspecting documents or making copies of documents in respect of each application or file or patent	5,0	10.00
51.	For photographic copy of any specification or other document (other than a patent form) or drawing-per sheet time to time	Contract price as fixed by the Minister from	

(NOTE: The same charge is maintained regardless of whether or not Patent Office equipment is used to produce such copies)

52.	For photographic copy of a document which is a	Double the charge
	patent form as described under the Third Schedule of the Patents Regulations	in item No. 51

(NOTE: The same charge is maintained regardless of whether or not Patent Office equipment is used to produce such copies)

(As amended by S.I. No. 38 of 1981, Act No. 13 of 1994)

SECOND SCHEDULE

(Regulation 35)

FORM OF PATENT

KENNETH DAVID KAUNDA, President of the Republic of Zambia: To all whom these presents shall come, Greeting:

WHEREAS

(hereinafter called the patentee) has, pursuant to the Patents Act, made application for

Letters Patent for an invention for

and has made a declaration that he is the owner of that invention and that there is no lawful ground of objection to the grant of a patent to him and has by a complete specification fully described and ascertained the said invention.

NOW THEREFORE, the patentee is granted full power, sole privilege, and authority that the patentee by himself, his agent, or licensees, and no others, may at all times hereafter during the term herein mentioned make, use, exercise, and vend the said invention within the Republic of Zambia in such manner as to him seems meet, and the patentee shall have and enjoy the whole profit and advantage from time to time accruing by reason of the said invention during the term of Sixteen Years from.....

PROVIDED ALWAYS that these Letters Patent shall be granted subject to the provisions of the said Act.

IN WITNESS WHEREOF these Letters Patent have been sealed as of the

day of one thousand nine hundred and

Dated this day of 19

Seal of Patent Office

Registrar of Patents

THIRD SCHEDULE

(Regulation 76)

PREScribed FORMS

<i>Form</i>	<i>Matter</i>	<i>Corresponding Fee Item No.</i>
1. Application for a patent (non-convention) .. 1
2. Convention application for a patent .. 2
3. Application for a patent of addition 3
4. Application for the grant of a patent of addition instead of an independent patent	4
5. Provisional specification.. -
6. Complete specification 5
7. Application for extension of time for lodging a complete specification 6
8. Request for the post-dating of an application 7
9. Application for extension of time for acceptance of a complete specification 8
10. Request for postponement of acceptance of complete specification 9
11. Application for withdrawal of acceptance .. 10
12. Notice of opposition to grant of patent .. 11
13. Claim under section 23 (1) of the Act to proceed as an applicant or co-applicants 12
14. Application for directions under section 23 (5) of the Act as to proceeding with an application for a patent in case of dispute between joint applicants 13
15. Request for the sealing of a patent.. .. 14
16. Application under proviso (iv) to section 25 (2) of the Act for an extension of the period for making a request for sealing of a patent	15
17. Application under proviso (v) to section 25 (2) of the Act for an		

extension of the period for making a request for sealing of a patent	16	
18. Application under section 26 of the Act for the amendment of a patent	17	
19. Payment of renewal fee	18	
20. Application for extension of the period for payment of renewal fee	19	
21. Certificate of payment of renewal fee .. .. .	..	..
-		
22. Application for the restoration of a lapsed patent	21	..
23. Notice of opposition to an application for the restoration of a lapsed patent	21	
24. Voluntary application for endorsement of patent "Licences of Right"	23	..
25. Application under section 35 (2) (a) or (b) of the Act for settlement of terms of licence under patent endorsed "Licences of Right"	24	..
26. Application under section 36 (1) of the Act by patentee for cancellation of endorsement of a patent "Licences of Right"	25	..
27. Application under section 36 (2) of the Act by any person interested for cancellation of endorsement of patent "Licences of Right"	26	..
28. Notice of opposition by patentee or by any person interested to cancellation of endorsement of a patent "Licences of Right"	27	..
29. Application for compulsory licence under section 37 of the Act	28	..
30. Application under section 43 of the Act for amendment of a provisional specification or of a complete specification not yet accepted	29	
31. Application under section 43 of the Act for amendment of complete specification after acceptance.. .. .	30	
32. Application to amend specification	31	..
33. Notice of opposition to amendment of specification under section 43 (5) of the Act	3	
34. Application for directions under section 47 (6) of the Act	33	..
35. Application for directions under section 47 (7) of the Act	34	..
36. Application under section 48 (1) of the Act to determine a dispute between employer and employee as to rights in an invention .. .. .	..	..

35

37. Offer to surrender a patent under section 52 (1) of the Act	36
38. Notice of opposition under section 52 (2) of the Act to offer to surrender a patent	37
39. Request for alteration of a name or nationality or an address or an address for service in the register of patents	38
40. Application for registration of assignment	39
41. Request to enter in the register of patents a notice of an interest in a patent	40
42. Request for correction of clerical error	41
43. Notice of opposition to the correction of a clerical error	42
44. Application for duplicate of Letters Patent	43
45. Application for registration as a patent agent under section 68 of the Act	44
46. Certificate of service	-
47. Application for entry of order of Supreme or High Court	46
48. General form of advertisement	-

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 1
Sections 11, 12
Regulation 3 (1)

THE PATENTS ACT
Fee units: 24

APPLICATION FOR A PATENT (NON-CONVENTION)

I/We (1)

(1) State
full name
and address
of
applicant(s)

(2) Delete
if not
applicable

being a national/nationals of
do hereby declare that I am/we are the owner(s) of an invention in respect of the Republic of
Zambia (2) by having invented it/by having acquired it by assignment, which invention is
described in the accompanying (2) provisional/complete specification under the title (3)

(3) Here
insert title
of
invention

that (2) I am/we are the assignee(s)/legal representative(s) of (4)

(4) Here
insert
name(s) of
inventor(s)

who claim(s) to be the inventor(s) thereof, and that to the best of my/our knowledge and
belief there is no lawful ground of objection to the grant of a patent to me/us on this
application and I/we pray that a patent may be granted to me/us for the invention.

Dated this day of,19

(5)

(5) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 2
Sections 8, 11, 12
Regulation 3 (2)

THE PATENTS ACT
Fee units: 24

CONVENTION APPLICATION FOR A PATENT

(This is a comprehensive form and points inappropriate to a particular application should be deleted)

I/We (1)

(1) State
full name
and address
of
applicant(s)

being a national/nationals of
do hereby declare that I am/we are the owner(s) of an invention in respect of the Republic of
Zambia (2) by having invented it/by having acquired it by assignment, which invention
is entitled (3)

(2) Delete
if not
applicable
(3) Here
insert title
of
invention

and which invention is described in the accompanying complete specification, and that (2)
I am/we are the assignee(s)/legal representative(s) of (4)

(4) Here
insert
name(s) of
inventor(s)

who claim(s) to be the inventor(s) thereof; that an application or applications for
protection for the invention or inventions has or have been made in the following country or
countries and on the following effective date or dates, namely:

in (5) on (6)
numbered (7)
in (5) on (6)

(5) Here
insert the
name of
the

numbered (7)
in (5) on (6)
numbered (7)

convention
country in
which the
first
application
was made
(6) Here
insert the
official
date of the
first
application
in a
convention
country

country/countries qualify under (8) Article 2/3 of the Convention by reason of being (8) a national of/

domiciled in/having a place of business in a member state, namely

, and that I/we qualify under the said (8)

Article 2/3 by reason of being (8) a national of/domiciled in/having a place of business in a member state, namely

and that to the best of my/our knowledge and belief there is no lawful ground of objection to the grant of a patent to me/us on this application and that I/we pray that a patent may be granted to me/us for the invention in priority to other applicants, and that such patent shall

have the date (6)

and (8) I/we declare the said invention(s) is/are an improvement in or modification of

(7) Here
insert
official
number of
first
application
in
convention
country and
that the said
application
or each of
the said
applications
was the first
application
in a
convention
country in
respect of
the relevant
invention
by me/us or
by any
person from
whom I/we
derive title,
and that the
applicant(s)
in the

above-
mentioned
(8) Delete
whichever
does not
apply

my/our invention for which a patent was applied for/granted under No. (9)
, and (8) I/we pray that a patent may be granted to me/us
for the said invention(s) as a patent of addition and request that the term of such further
patent may be the same as that of the patent for the main invention or so much of that term
as is unexpired.

(9) Insert
number of
main
patent or
patent
application

Dated this day of,19

(10)

(10) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 3
Sections 11, 12, 31 (1)
Regulation 3 (3)

THE PATENTS ACT
Fee units: 40

APPLICATION FOR A PATENT OF ADDITION

I/We (1)

(1) State
full name
and address
of
applicant(s)

being a national/nationals of
do hereby declare that I am/we are the owner(s) of an invention the title of which is (2)

(2) Here
insert title
of
invention

and that I am/we are the (3) assignee(s)/legal representative(s) of (4)

(3) Delete
if not
applicable

who claim(s) to be the inventor(s) thereof; that the said invention is an improvement in or
modification of my/our invention for which a patent was applied for/granted under

(4) Here
insert
name(s) of
inventor(s)

No. (5) ;
that to the best of my/our knowledge and belief there is no lawful ground of objection to the
grant of a patent to me/us on this application and I/we pray that a patent may be granted to
me/us for the said invention as a patent of addition and request that the term of such further
patent may be the same as that of the patent for the main invention or so much of that term
as is unexpired

(5) Here
insert
number of
main
patent or
patent
application

Dated this day of,19

(6)

(6) To be
signed by

My/Our address for service in Zambia:

the
applicant(s)
or his/her
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 4
Sections 11, 12, 31 (2)
Regulations 3 (4)

THE PATENTS ACT

Fee unit:

APPLICATION FOR THE GRANT OF A PATENT OF ADDITION
cINSTEAD OF AN INDEPENDENT PATENT

I/We (1)

(1) State
full name
and
address of
patentee(s)

being a national/nationals of

hereby request that patent No.

of which I am/we are the patentee(s) be revoked and that instead thereof a patent of

addition to patent No. of which I am/we are also the patentee(s)

be granted to me/us, such patent of addition to bear the same date as the patent so revoked.

Dated this day of,19

(2)

(2) To be
signed by
patentee(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 5
Regulation 3 (5)

THE PATENTS ACT

PROVISIONAL SPECIFICATION

(1)

(1) State
title
verbally
agreeing
with that in
the
application
form

(2) I/We .

(2) State
full name,
description
and address
of
applicant(s)
as in
application
form

do hereby declare this invention to be described in the following statement:

(3)

(3) Here begin
description of the
invention. The
continuation of
the specification
should be upon
paper of foolscap
size on one side
only, with the
lines well spaced
and with a margin
of one inch and a
half on the
left-hand part of
the paper. The

specification must
be signed by the
applicant(s) or
his/their agent on
the last sheet and
dated (thus):
"Dated
this
day
of
19"

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 6
Regulation 3 (5)

THE PATENTS ACT
Fee unit: 1

COMPLETE SPECIFICATION
(To be furnished in duplicate)

(1)

(1) State
title
verbally
agreeing
with that in
the
application
form

(2) I/We

(2) State
full name,
description
and address
of
applicant(s)
as in
application
form

do hereby declare this invention, the manner in which and the method by which it is to be performed, to be particularly described and ascertained in and by the following statement:

(3)

(3) Here begin full
description of
invention. The
continuation of
the specification
should be upon
paper of foolscap
size on one side
only, with the
lines well spaced
and with a margin
of one inch and a

NOTE.-The claims must relate to a single invention, must be clear and succinct and must be fairly based on the matter disclosed in the specification. They should form in brief a clear statement of that which constitutes the invention. Applicants should be careful that their claims include neither more nor less than they desire to protect by their patent. Any unnecessary multiplicity of claim or prolixity of language should be avoided. Claims should not be made for the efficiency or advantages of the invention.

half on the
left-hand part of
the paper. The
completion of the
description should
be followed by the
words "Having
now particularly
described and
ascertained
my/our said
invention and in
what manner the
same is to be
performed, I/we
declare that what
I/we claim is:"
(after which
should be written
the claim or
claims numbered
consecutively)
(see note below).
The specification
and the duplicate
thereof must be
signed by the
applicant(s) or
his/their agent on
the last sheet and
dated (thus):
"Dated
this
day
of
19"

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 7
Section 13 (2)
Regulation 9

THE PATENTS ACT
Fee unit: 01

APPLICATION FOR EXTENSION OF TIME FOR LODGING A COMPLETE
SPECIFICATION

I/We (1)

(1) State
name and
address of
applicant(s)

hereby, in respect of application No. , request
an extension of time until
in which to lodge a complete specification.

Dated this day of 19
(2)

(2) To be
signed by
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 8
Section 17 (1)
Regulation 10

THE PATENTS ACT
Fee unit: 1

REQUEST FOR THE POST-DATING OF AN APPLICATION

I/We (1)

(1) State
name and
address of
applicant(s)

hereby request that application No. lodged
on the of 19
be deemed to have been made on the following date, namely, the day
of 19
Dated this day of 19

(2)

(2) To be
signed by
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 9
Section 20 (1)
Regulation 20

THE PATENTS ACT
Fee units: 1, 2, 3

APPLICATION FOR EXTENSION OF TIME FOR ACCEPTANCE OF A COMPLETE SPECIFICATION

I/We hereby apply for _____ months' extension
of time for acceptance of the complete specification upon application No. _____
dated _____
Dated this _____ day of _____ 19 _____

(1)

(1) To be signed by applicant(s) or his/their agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 10
Section 21 (1)
Regulation 21

THE PATENTS ACT
Fee unit: 1

**REQUEST FOR POSTPONEMENT OF ACCEPTANCE OF
COMPLETE SPECIFICATION**

I/We hereby request a postponement of the acceptance of the complete specification of
application No. dated

 to a date not later than the
expiration of months from the date of lodging of
the application.

Dated this day of 19

(1)

My/Our address for service in Zambia:

(1) To be
signed by
applicant(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.
(F.G.N. No. 206 of 1959)

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 11
Regulation 22 (2)

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR WITHDRAWAL OF ACCEPTANCE

I/We (1)

(1) State
name and
address of
applicant(s)

apply for withdrawal of the acceptance of the specification of patent application No.

My/Our reasons for desiring such withdrawal are as follows:

(2)

(2) The
circumstances
and grounds
must be stated
in full

Dated this day of 19

(3)

My/Our address for service in Zambia:

(3) To be
signed by
the
applicant(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 12
Section 22 (1)
Regulation 24

THE PATENTS ACT
Fee unit: 1

(1) State
full name
and
address

NOTICE OF OPPOSITION TO GRANT OF PATENT

I/We (1)

hereby give notice of opposition to the grant of Letters Patent upon application
No. applied for by

upon the ground (2)

(2) State
upon which
of the
grounds of
opposition
permitted by
section 22 the
grant is
opposed and
identify all
specifications
and other
publications
relied upon

Dated this day of 19

(3)

My/Our address for service in Zambia:

(3) To be
signed by
objector(s)
or his/their
legal

practitioner

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 13

Section 23 (1)
Regulation 31 (1),

THE PATENTS ACT
Fee unit 1

CLAIM UNDER SECTION 23 (1) OF THE ACT TO PROCEED
AS AN APPLICANT OR CO-APPLICANTS

I/We (1)

(1) State
name of
claimant(s)

hereby request that patent application No. (2) dated
made by

(2) State the
number and
date of the
application
for patent

(3)

(3) State
name of
applicant(s)
for patent

may proceed in the name(s) of (4)

(4) Here
insert name,
address and
nationality
of the
person or
persons in
whose
name(s) it is
requested
that the
application
shall
proceed

I/We claim to be entitled to proceed as applicant(s) for the patent by virtue of (5)

(5) Give the particulars of such document, giving its date and the parties to the same, and showing how the claim here made is substantiated

And in proof whereof I/we transmit the accompanying (6)

(6) State the nature of the document.

My/Our address for service in Zambia:

The certified copy should be written, typewritten or printed on foolscap paper

(7)

(7) To be signed by claimant(s) or his/their agent

I/We (8)

consent to the above request.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

(8) To be signed by the applicant(s) or his/their agent

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 14
Section 23 (5)
Regulation 32

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR DIRECTIONS UNDER SECTION 23 (5) OF THE ACT AS TO
PROCEEDING WITH AN APPLICATION FOR A PATENT IN CASE OF DISPUTE
BETWEEN JOINT APPLICANTS

I (1)

(1) State
full name
and
address

being a joint applicant with (2)

(2) State
name and
address of
other
applicant(s)

in the application for a patent No hereby
declare that a dispute has arisen between us and request that an order of the Registrar be
made giving directions for enabling the application to proceed.

Particulars of the matter in dispute are given in the annexed statement setting out the facts
upon which I rely and the relief which I seek.

Dated this day of 19

(3)

(3) To be
signed by
applicant
or his
agent

My address for service in Zambia:

NOTE.-The application must be accompanied by a statement of case and by copies of the
application and statement as required by regulation 32.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 15
Section 25 (1)
Regulation 33

THE PATENTS ACT
Fee units: 40

REQUEST FOR THE SEALING OF A PATENT

I/We (1)

(1) State
name of
applicant(s)

request that a patent may be sealed on my/our application No

of 19, and I/we hereby transmit the prescribed fee for sealing, and further
request that the following may be entered on the register as my/our address for service in
Zambia:

Dated this day of 19

(2)

(2) To be
signed by
the
applicant(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 16
Section 25 (2)
Regulation 34 (1)

THE PATENTS ACT
Fee units: 123

APPLICATION UNDER PROVISO (IV) TO SECTION 25 (2) OF THE ACT FOR AN
EXTENSION OF THE PERIOD FOR MAKING A REQUEST FOR SEALING OF A
PATENT

I/We hereby apply for months' extension
of time for the sealing of a patent upon application No.
dated
Dated this day of 19

(1)

My/Our address for service in Zambia:

(1) To be
signed by
the
applicant(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 17
Section 25 (2)
Regulation 34 (2)

THE PATENTS ACT
Fee unit: 1

APPLICATION UNDER PROVISIO (V) TO SECTION 25 (2) OF THE ACT FOR AN
EXTENSION OF THE PERIOD FOR MAKING A REQUEST FOR SEALING OF A
PATENT

I/We hereby apply for (1) months' extension
of the period for the sealing of a patent upon application No.
The circumstances and the grounds upon which the extension is applied for are as follows:

(1) Not
more than
six months'
extension
may be
applied for
at one time

(2)

(2) The
circumstances
and grounds
must be stated
in detail

I/We hereby declare that-

(a) an extension of time of three months for making a request for sealing has been
allowed under proviso (iv) to section 25 (2) of the Act and has not yet expired;
(b) an extension of time of months for making a
request for sealing has been allowed under proviso (v) to section 25 (2) of the Act and has
not yet expired.

(a) and (b)
Delete the
words
which are
not
applicable

Dated this day of 19

(3)

(3) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 18
Section 26
Regulation 36

THE PATENTS ACT
Fee units: 1

APPLICATION UNDER SECTION 26 OF THE ACT FOR THE AMENDMENT OF A
PATENT

I/We (1)

(1) State
name and
address

hereby request that Letters Patent No.
granted to

may be amended by substituting the name of (2)

(2) State
name and
address of
person to
whom
patent
should
have been
granted

for the name of the grantee.

Dated this day of 19

(3)

(3) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-Application to be accompanied by evidence verifying the statements made therein
and by the Letters Patent.

The Registrar,
The Patent Office,

Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 19
Section 29 (4)
Regulations 37, 47

THE PATENTS ACT

Fee units: 10-30 depending on period

PAYMENT OF RENEWAL FEE

I/We (1)

(1) State
name of
person(s)
tendering
the fee

hereby transmit the fee prescribed for the continuation in force of (2)

(2) Here
insert
name of
patentee(s)

Patent No. for a further period of
and request that the

Certificate of Payment may be sent to me/us at (3)

(3) Here
insert full
address to
which
certificate

Dated this day of 19

NOTE.-If the address given above is not that entered in the register as the patentee's address for service and it is desired to amend the entry in the register, application therefor must be made in Patents Form No. 39.

is to be
sent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 20
Section 29 (4)
Regulation 39

THE PATENTS ACT
Fee units: 1-5

**APPLICATION FOR EXTENSION OF THE PERIOD FOR PAYMENT OF RENEWAL
FEE**

I/We hereby apply for an extension of month(s)
of the period prescribed for payment of the years'
renewal fee upon my/our Patent No

(1)

Dated this day of 19

(1) Here
insert
name and
full
address to
which
receipt is
to be sent

(2)

The Registrar,
The Patent Office,
Lusaka,
Zambia.

(2) To be
signed by
the
applicant(s)
or his/their
agent

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 21
Regulation 40

THE PATENTS ACT

CERTIFICATE OF PAYMENT OF RENEWAL FEE

Letters Patent No

This is to certify that

did this day of, 19

make the prescribed payment of K

in respect of a period of

from

Registrar of Patents

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 22
Section 33
Regulation 41

THE PATENTS ACT
Fee units: 24

APPLICATION FOR THE RESTORATION OF A LAPSED PATENT

I/We

of

being the owner(s) of Patent No. _____, hereby apply
for an order for the restoration of the said patent.

The circumstances which have led to the failure to pay the renewal fee of (1)

(1) Here
state
amount of
fee

on or before the (2)

(2) State
last day
when fee
was due

are as follows: (3)

(3) State
circumstances.
The
application
must be
accompanied
by one or
more
affidavits
setting out
fully all the
material facts
on which the
applicant(s)
base(s)

Dated this _____ day of 19

his/their case

(4)

My/Our address for service in Zambia:

(4) To be
signed by
the
applicant(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 23
Section 33 (4)
Regulation 42

THE PATENTS ACT
Fee units: 12

**NOTICE OF OPPOSITION TO AN APPLICATION FOR THE RESTORATION OF A
LAPSED PATENT**

I/We (1)

hereby give notice of opposition to the application for restoration of Patent No.

for the following reasons (2)

Dated this day of 19

(3)

(1) Here
state full
name and
address of
objector(s)

(2) Here
state reasons
for
opposition.
The notice
must be
accompanied
by a copy
thereof
together with
a statement,
in duplicate,
setting out
fully the
nature of the
objector's(s')
interest and
the facts
upon he
relies/they
rely

(3) To be
signed by
the

My/Our address for service in Zambia:

objector(s)
or his/her
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 24
Section 35 (1)
Regulation 44

THE PATENTS ACT
Fee units: 1

VOLUNTARY APPLICATION FOR ENDORSEMENT OF PATENT "LICENCES OF RIGHT"

I/We (1)

(1) State
name and
address of
patentee(s)

being the owner(s) of Patent No. _____, hereby request
that the said patent may be endorsed "Licences of Right". I am/We are not precluded by
contract from granting licences under the patent.

Dated this _____ day of 19

(2)

(2) To be
signed by
the
patentee(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by evidence verifying the statement in the
application and by the Letters Patent.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 25
Section 35 (2)
Regulation 45

THE PATENTS ACT
Fee unit 1

APPLICATION UNDER SECTION 35 (2) (A) OR (B) OF THE ACT FOR
SETTLEMENT
OF TERMS OF LICENCE UNDER PATENT ENDORSED "LICENCES OF RIGHT"

I/We (1)

(1) State
name and
address of
applicant(s)

hereby apply for settlement of the terms of a licence to be granted under Patent No.

I am/We are the-

- (a) patentee(s);
- (b) person(s) requiring a licence;
- (c) holder(s) of a licence under the patent granted before endorsement.

I/We (d) request that an order may be made entitling me/us to exchange my/our existing
licence for a licence to be granted upon the terms as settled.

Dated this day of 19

(2)

My/Our address for service in Zambia:

(2) To be
signed by
the
applicant(s)
or his/their
agent

NOTE.-The application must be compiled in duplicate and by a statement of case in
duplicate. by a statement of case in duplicate.

The Registrar,

The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 26
Section 36 (1)
Regulation 47

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER SECTION 36 (1) OF THE ACT BY PATENTEE FOR
CANCELLATION OF ENDORSEMENT OF A PATENT "LICENCES OF RIGHT"

I/We (1)

(1) State
name and
address of
patentee(s)

being the owner(s) of Patent No. _____, hereby request
that the endorsement of the said patent as "Licences of Right" may be cancelled, and I/we
enclose Patents Form No. 19 bearing the balance of all renewal fees which would have been
payable if the patent had not been endorsed.

I/We declare (a) that there is no existing licence under the patent; or (b) all the licensees
consent to this application.

(a), (b)
Delete
whichever
is not
applicable

Dated this _____ day of 19

(2)

(2) To be
signed by
the
patentee(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by evidence in support of the application.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 27
Section 36 (2)
Regulation 48

THE PATENTS ACT

Fee unit: 1

APPLICATION UNDER SECTION 36 (2) OF THE ACT BY ANY PERSON
INTERESTED FOR CANCELLATION OF ENDORSEMENT OF PATENT "LICENCES
OF RIGHT"

I/We (1)

(1) State
name and
address of
applicant(s)

hereby claim that the endorsement of Patent No
"Licences of Right" is and was at the time of the endorsement contrary to a contract in
which I am/we are interested and I/we request that such endorsement may be cancelled.

Dated this day of 19
(2)

(2) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The application must be completed in duplicate and accompanied by a statement
of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 28
Section 36 (5)
Regulation 49

THE PATENTS ACT
Fee unit: 1

NOTICE OF OPPOSITION BY PATENTEE OR BY ANY PERSON INTERESTED TO
CANCELLATION OF ENDORSEMENT OF A PATENT "LICENCES OF RIGHT"

I/We (1)

(1) State
name and
address of
opponent(s)

hereby give notice of opposition to the application for the cancellation of the endorsement
"Licences of Right" in respect of Patent No.

Dated this day of 19

(2)

(2) To be
signed by
the
opponent(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The notice must be accompanied by a copy thereof and a statement of case in
duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 29
Section 37
Regulation 50

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR COMPULSORY LICENCE UNDER SECTION 37 OF THE ACT

I/We (1)

(1) State
name and
address of
applicant(s)

hereby apply for an order of the High Court for a licence to be granted to me/us in respect
of Patent No for the following
reasons:

(2)

(2) State the
nature of the
applicant's(s')
interest, the
facts upon
which he
relies/they
rely and the
grounds upon
which the
application is
made

Dated this day of 19

(3)

My/Our address for service in Zambia:

(3) To be
signed by
the
applicant(s)
or his/their
legal
practitioner

NOTE.-The application must be accompanied by evidence verifying the statements set out
in the application.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 30
Section 43
Regulation 54

THE PATENTS ACT
Fee unit: 1

APPLICATION UNDER SECTION 43 OF THE ACT FOR AMENDMENT OF A
PROVISIONAL SPECIFICATION OR OF A COMPLETE SPECIFICATION NOT YET
ACCEPTED

I/We (1)

(1) State
full name
and address
of
applicant(s)

seek leave to amend the provisional/complete specification of Patent Application
No. as shown in red ink in the certified copy of
the original specification hereunto annexed.

My/Our reasons for making this amendment are in detail as follows:

(2)

(2) State
full
particulars
of the
reasons for
seeking
amendment

Dated this day of 19

(3)

(3) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 31
Section 43
Regulation 55

THE PATENTS ACT
Fee units: 1-5

**APPLICATION UNDER SECTION 43 OF THE ACT FOR AMENDMENT OF
COMPLETE SPECIFICATION AFTER ACCEPTANCE**

I/We (1)

(1) Here
state full
name and
address of
applicant(s)

seek leave to amend the specification of Letters Patent No. /
Patent Application No. as shown in red ink in the certified
copy of the original specification hereunto annexed.

I/We (2)

declare that no action for infringement or proceedings for the revocation of the Letters
Patent in question are pending.

My/Our reasons for making this amendment are as follows:

(2) These
words are
to be
struck out
when
Letters
Patent
have not
been
sealed

(3)

(3) State
full
particulars
of the
reasons for
making
amendment

Dated this day of 19

(4)

(4) To be
signed by
applicant(s)

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

or
patentee(s)
or his/her
agent

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 32
Section 43
Regulation 55

THE PATENTS ACT
Fee unit: 1

APPLICATION TO AMEND SPECIFICATION

(Form of advertisement of request to amend specification)

I/We (1)

(1) State
full name
and address
of
applicant(s)

seek leave to amend by way of (2)
the specification of Letters Patent/Patent Application No.

(2) State
whether by
way of
disclaimer,
correction
or
explanation

for (3)

(3) Title of
invention

A copy of the original specification, showing in red ink the proposed amendment, is now open to public inspection at the Patent Office.

A notice of opposition (in Patents Form No. 33) may be filed at the Patent Office within three months from the date of this advertisement.

Dated this day of 19

(4)

(4) To be
signed by
applicant(s)
or his/their
agent

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 33
Section 43 (5)
Regulation 57

THE PATENTS ACT

Fee unit: 1

NOTICE OF OPPOSITION TO AMENDMENT OF SPECIFICATION
UNDER SECTION 43 (5) OF THE ACT

I/We (1)

(1) State
full name
and
address of
objector(s)

hereby give notice of opposition to the proposed amendment of the specification of Letters
Patent/Patent Application No , for the following reasons:

(2)

(2) Here
state
reasons of
opposition

Dated this day of 19

(3)

(3) To be
signed by
objector(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 34
Section 47 (6)
Regulation 59

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR DIRECTIONS UNDER SECTION 47 (6) OF THE ACT

I/We (1)

(1) State
name and
address of
patentee(s)

hereby apply for the following directions in respect of Patent No.

(2)

(2) State
the
directions
sought

Dated this day of 19

(3)

(3) To be
signed by
the
patentee(s)
seeking
directions
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by a statement of case and by copies of the application and statement as required by regulation 59.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 35
Section 47 (7)
Regulation 60

THE PATENTS ACT

Fee unit: 1

APPLICATION FOR DIRECTIONS UNDER SECTION 47 (7) OF THE ACT

I/We (1)

(1) State
name and
address of
patence of
joint
patentees

hereby apply for directions in respect of the failure of (2)

(2) State
name of
person in
default

to comply with the directions of the Registrar given under section 47 (6) of the Act on the
day of, 19 in the following manner:

(3)

(3) State
the
directions
sought

Dated this day of 19

(4)

(4) To be
signed by
the
patentee(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by a copy thereof and a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 36
Section 48 (1)
Regulation 61

THE PATENTS ACT
Fee unit: 1

APPLICATION UNDER SECTION 48 (1) OF THE ACT TO DETERMINE A DISPUTE
BETWEEN EMPLOYER AND EMPLOYEE AS TO RIGHTS IN AN INVENTION

I/We (1)

(1) State
name and
address of
applicant(s)

hereby declare that in respect of the rights in the invention for which an application for a
patent was made by

and numbered , (2) and upon which a patent

(2) Delete
if a patent
has not
been
granted

No. has been granted, a dispute has arisen between me/us

and (3)

(3) State
name and
address of
other party
to dispute

and I/we hereby apply to the Registrar/High Court to determine the dispute.

The facts of the dispute and the relief which I/we seek are set out fully in the accompanying
statement.

Dated this day of 19

(4)

(4) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-Application must be accompanied by a copy thereof and a statement in duplicate setting out the facts of the dispute and the relief which is sought.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 37
Section 52 (1)
Regulation 63

THE PATENTS ACT
Fee unit: 1

OFFER TO SURRENDER A PATENT UNDER SECTION 52 (1) OF THE ACT

I/We (1)

(1) State
full name
and
address of
patentee(s)

hereby offer to surrender Patent No.

I/We declare that no action for infringement, proceeding for revocation or proceeding in which the validity of the patent or of a clause in the complete specification is disputed, is pending.

My/Our reasons for making this offer are:

Dated this day of 19

(2)

(2) To be
signed by
the
patentee(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA

PATENTS FORM NO. 38
Section 52 (2)
Regulation 64

THE PATENTS ACT
Fee unit: 1

**NOTICE OF OPPOSITION UNDER SECTION 52 (2) OF THE ACT
TO OFFER TO SURRENDER A PATENT**

I/We (1)

(1) State
full name
and address
of
opponent(s)

hereby give notice of opposition to the offer to surrender Patent No.

for the following reasons (2)

(2) State
briefly the
reasons for
opposition

Dated this day of 19

(3)

(3) To be
signed by
the
opponent(s)
or his/their
agent

My/Our address for service in Zambia:

NOTE.-The application must be accompanied by a copy thereof and a statement of case in duplicate.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 39

Section 6
Regulation 66

THE PATENTS ACT
Fee unit: 1

**REQUEST FOR ALTERATION OF A NAME OR NATIONALITY OR AN ADDRESS
OR AN ADDRESS FOR SERVICE IN THE REGISTER OF PATENTS**

In the matter of Patent No.

I/We (1)

(1) State
full name
and address
of
applicant(s)

hereby request that the (2) name, nationality, address, address for service, now upon the

(2) Strike
out words
not
applicable

register of patents may be altered to (3)

(3) Insert
name,
nationality,
address or
address for
service, as
the case
may be

Dated this day of 19

(4)

My/Our address for service in Zambia:

(4) To be
signed by
the
applicant(s)
or his/their
agent

NOTE.-Where the request is for alteration in a name or nationality, proof of the alteration

must be furnished.

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 40
Section 58 (2)
Regulation 67 (1)

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR REGISTRATION OF ASSIGNMENT

I/We (1)

(1) State
full name
and address
of
applicant(s)

 hereby request that you will enter my/our name in the register of patents as
proprietor/co-
proprietor of Patent No. at present
registered in the name of (2)

(2) Here
give name
of registered
proprietor(s)

I/We claim to be so entitled by virtue of (3)

(3) Here
specify the
particulars
of each
document,
giving its
date, and the
parties to the
same, and
showing
how the
claim here
made is
substantiated

And in proof whereof I/we transmit the accompanying (4)

with a certified copy thereof.

Dated this day of 19

(4) Here
insert the
nature of
the
document

(5)

My/Our address for service in Zambia:

(5) To be
signed by
the
applicant(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 41
Section 58 (2)
Regulation 67 (2)

THE PATENTS ACT
Fee unit: 1

REQUEST TO ENTER IN THE REGISTER OF PATENTS A NOTICE OF AN
INTEREST IN A PATENT

I/We (1)

hereby request that you will enter in the register of patents a notice of the following interest
in a patent:

(1) State
full name
and address
of
applicant(s)

I/We claim to be entitled (2)

to an interest in Patent No. at present registered

(2) Here
insert the
nature of
the claim,
whether by
way of
licence or
otherwise

in the name of (3)

(3) Here
give the
name of
registered
proprietor(s)

by virtue of (4)

(4) Here
specify the
particulars
of such
document,
giving its
date, and the
parties to the

same, and
showing
how the
claim here
made is
substantiated

And in proof whereof I/we transmit the accompanying (5)

(5) Here
insert the
nature of
the
document

with a certified copy thereof.

Dated this day of 19

(6)

(6) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 42
Section 59 (2)
Regulation 69

THE PATENTS ACT
Fee units: 1-2

REQUEST FOR CORRECTION OF CLERICAL ERROR

I/We (1)

(1) State
full name
and address
of
applicant(s)

hereby request that the clerical error(s) in the (2)

(2) State
whether in
application,
specification,
entry in
register,
patent or the
particular
relevant
document

relating to Application Patent No indicated in red
ink in the annexed copy of the said (2)
or shown as follows:

may be corrected.

Dated this day of 19

(3)

(3) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 43
Section 59 (5)
Regulation 71

THE PATENTS ACT
Fee unit: 1

NOTICE OF OPPOSITION TO THE CORRECTION OF A CLERICAL ERROR

I/We (1)

(1) State
full name
of
objector(s)

hereby give notice of opposition to the correction of an alleged clerical error in

which said correction has been applied for by

The grounds upon which the said correction is opposed are as follows:

Dated this day of 19

(2)

(2) To be
signed by
the
objector(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 44
Section 63
Regulation 73

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR DUPLICATE OF LETTERS PATENT

I/We (1)

(1) State
full name
and address
of
applicant(s)

have to inform you that the Letters Patent dated (2)

No. granted to

(2) State
date,
number
and full
name of
grantee(s)

for an invention the title of which is (3)

has been lost or destroyed, or cannot be produced in the following circumstances:

(3) Insert
title of
invention

(4)

(4) State full
circumstances
of the case,
which must
be verified by
evidence

I/We beg therefore to apply for the issue of a duplicate of such Letters Patent.

(5)

(5) State
interest
possessed
by
applicant(s)
in the

Dated this day of 19

patent

(6)

My/Our address for service in Zambia:

(6) To be
signed by
the
patentee(s)
or his/their
agent

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 45
Section 68
Regulation 74

THE PATENTS ACT
Fee unit: 5

APPLICATION FOR REGISTRATION AS A PATENT AGENT UNDER SECTION 68
OF THE ACT

I (1)

(1) State
full name
and
address

do hereby make oath and say as follows:

I am ordinarily resident in Zambia and have been so resident since (2)

(2) State
date of
entry into
Zambia

I possess the following qualifications which entitle me to be registered as a patent agent in
terms of section 68 of the Act:

(3)

(3) Here
insert full
particulars of
qualifications

I desire to be registered as a patent agent.

Sworn before me at

this day of, 19

Commissioner for Oaths

(As amended by F.G.N. No. 203 of 1962)

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 46
Regulation 79

THE PATENTS ACT

CERTIFICATE OF SERVICE

I/We (1)

(1) State
name and
address

hereby certify that at (2)

(2) State
precisely
where the
service
was
effected

on the day of, 19,
at, o'clock in the noon, I/we served the
following documents upon

by (3)

(3) Here
describe
the method
of service

Dated this day of 19

(4)

(4) To be
signed by
the person
effecting
service

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 47
Regulation 87

THE PATENTS ACT
Fee unit: 1

APPLICATION FOR ENTRY OF ORDER OF SUPREME COURT OR HIGH COURT

I/We (1)

(1) State
name and
address of
applicant(s)

in respect of Patent/Patent Application No. hereby
transmit an office copy of an order by the High Court/by the Supreme Court with

reference to (2)

(2) Here
state
purport of
the order

Dated this day of 19

(3)

(3) To be
signed by
the
applicant(s)
or his/their
agent

My/Our address for service in Zambia:

The Registrar,
The Patent Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
PATENTS FORM NO. 48
Sections 21 (2),
30 (1), 36 (5),
52 (2), 59 (4)
Regulation 76

THE PATENTS ACT

GENERAL FORM OF ADVERTISEMENT

Notice is hereby given that in terms of section of
the Patents Act

Dated this day of 19

(1)

NOTE.-The contents of this advertisement must be approved by the Registrar in terms of
section 66.

(As amended by Act No. 13 of 1994)

(1) Name
and address
of
applicant(s)
or his/their
agent

SECTION 81-THE PATENTS (APPEALS) RULES Regulations by the Chief Justice

***Statutory
Instrument
No. 9 of
1984***

- | | |
|---|--------------------------------------|
| 1. These Rules may be cited as the Patents (Appeals) Rules. | Title |
| 2. Subject to any specific provisions of the Act, the High Court (Appeals) (General) Rules, 1984, shall apply to any appeal to the High Court brought pursuant to the provisions of the Act. | Appeals to High Court |
| 3. Subject to any specific provisions of the Act, the Supreme Court Rules shall apply to any appeal to the Supreme Court brought pursuant to the provisions of the Act. | Appeals to Supreme Court.
Cap. 25 |

CHAPTER 401 THE TRADE MARKS ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title
2. Interpretation

PART II

ADMINISTRATION

3. Establishment of Trade Marks Office
4. Seal
5. Appointment of officers
6. Register of trade marks

PART III

EFFECT OF REGISTRATION AND THE ACTION FOR INFRINGEMENT

7. No action for infringement of unregistered trade mark
8. Registration to be in respect of particular goods
9. Right given by registration in Part A and infringement thereof
10. Right given by registration in Part B and infringement thereof
11. Infringement by breach of certain restrictions
12. Saving for vested rights
13. Saving for use of name, address or description of goods

PART IV

REGISTRABILITY AND VALIDITY OF REGISTRATION

14. Distinctiveness requisite for registration in Part A
 15. Capability of distinguishing requisite for registration in Part B
 16. Prohibition of registration of deceptive, etc., matter
- Section
17. Prohibition of registration of identical and resembling trade marks
 18. Registration in Part A to be conclusive as to validity after seven years
 19. Registration subject to disclaimer
 20. Words used as name or description of an article or substance
 21. Effect of limitation as to colour and of absence thereof

PART V

PROCEDURE FOR, AND DURATION OF, REGISTRATION

22. Application for registration
23. Opposition to registration and appeals
24. Registration
25. Duration and renewal of registration
26. Registration of parts of trade marks and of trade marks as a

series

PART VI

ASSIGNMENT AND TRANSMISSION

- 27. Powers of, and restrictions on, assignment and transmission
- 28. Certain trade marks to be associated so as to be assignable and transmissible as a whole only
- 29. Power of registered proprietor to assign and give receipts
- 30. Registration of assignments and transmissions

PART VII

USE AND NON-USE

- 31. Removal from register and imposition of limitation
- 32. Defensive registration of well-known trade marks
- 33. Registered users
- 34. Proposed use of trade mark by corporation to be constituted, etc.
- 35. Use of one of associated or substantially identical trade marks equivalent to use of another
- 36. Use of trade mark for export trade

PART VIII

RECTIFICATION AND CORRECTION OF THE REGISTER

Section

- 37. General power to rectify entries in register
- 38. Power to expunge or vary registration for breach of condition
- 39. Correction of register
- 40. Alteration of registered trade mark
- 41. Adaptation of entries in register to amended or substituted classification of goods

PART IX

CERTIFICATION TRADE MARKS

- 42. Certification trade marks

PART X

FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS

- 43. Preliminary advice by Registrar as to distinctiveness
- 44. Hearing before exercise of Registrar's discretion
- 45. Evidence of certain entries and documents
- 46. Requests for information as to trade mark
- 47. Power of Registrar to award costs
- 48. Proceedings before Registrar
- 49. Power of Registrar to fix time and place of sitting, etc.
- 50. Advertisements to be approved by Registrar

PART XI

APPEALS AND LEGAL PROCEEDINGS

- 51. High Court to hear appeals
- 52. *Repealed by Act No. 17 of 1980*
- 53. Rules
- 54. *Repealed by Act No. 17 of 1980*
- 55. Time for appeals
- 56. References to High Court by Registrar
- 57. Registration to be *prima facie* evidence of validity

Section

- 58. Certification of validity
- 59. Infringement or passing off action to be heard in High Court
- 60. Trade usage, etc., to be considered
- 61. Registrar's appearance in proceedings involving rectification
- 62. *Repealed by Act No. 17 of 1980*

- 63. *Repealed by Act No. 17 of 1980*
- 64. Procedure in cases of option to apply to High Court or Registrar
- 65. Security for costs and taxation of costs
- 66. Costs of Registrar
- 67. Appeals to Supreme Court

PART XII

OFFENCES AND PENALTIES

- 68. Falsification of entries in register
- 69. Penalty for falsely representing a trade mark as registered
- 70. Deceiving or influencing the Registrar or an officer
- 71. Witness giving false evidence
- 72. Penalties

PART XIII

MISCELLANEOUS

- 73. Convention arrangements
- 74. Change of form of trade connection not to be deemed to cause deception
- 75. Jointly owned trade marks
- 76. Lodging and authentication of documents
- 77. Expenses of administration
- 78. Provisions as to fees
- 79. Oaths and affirmations
- 80. Trade Marks Journal
- 81. Regulations

PART XIV

APPLICATION AND TRANSITIONAL PROVISIONS

Section

- 82. Application of Act

83. *Repealed by Act No. 17 of 1980.*

84. *Repealed by Act No. 47 of 1980.*

85. *Repealed by Act No. 17 of 1980.*

PART XV

TRADE MARK AGENTS

86. Registration of trade mark agents

87. Removal of names from register of trade mark agents

88. Privileges of legal practitioners and patent agents

89. Entitlement to practise as a trade mark agent

90. Trade mark agents and their functions

91. Prohibition of certain acts by trade mark agents

SCHEDULE-Certification trade marks

CHAPTER 401

TRADE MARKS

An Act to make provision relating to the registration of trade marks and for other purposes incidental thereto.

Federal Acts
14 of 1957
37 of 1960
2 of 1962
Government
[1st April, 1958] Notices
186 of 1964
497 of 1964
Statutory
Instrument
175 of 1965
Act No. 17 of
1980
Act No. 13 of
1994

PART I

PRELIMINARY

1. This Act may be cited as the Trade Marks Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation

"assignment" means assignment by act of the parties concerned;

Cap. 400

"Convention" means the Union Convention of Paris, dated the 20th March, 1883, for the Protection of Industrial Property, revised at Brussels on the 14th December, 1900, at Washington on the 2nd June, 1911, at The Hague on the 6th November, 1925, and at London on the 2nd June, 1934, and any revision thereof to which the *former Federation of Rhodesia and Nyasaland or the former Protectorate of Northern Rhodesia may have acceded or to which the **Republic may accede in terms of section *seven* of the Patents Act;

Cap. 400

Cap. 30

Cap. 400

*Acceded with effect from 1st April, 1958. (F.G.N. No. 39 of 1958.)

**Acceded with effect from 24th October, 1964. (G.N. No. 1751 of 1965.)

"convention country", in relation to any provision of this Act, means a country (including any colony, protectorate or territory subject to the authority or under the suzerainty of that country, or any territory over which a mandate or trusteeship is exercised) which has been declared to be a convention country in terms of section *seven* of the Patents Act;

"examiner" means an examiner appointed under section *five*;

"legal practitioner" means a person admitted or otherwise entitled to practise as a barrister and solicitor in terms of the Legal Practitioners Act;

"limitations" means any limitations of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode of use, as to use in relation to goods to be sold or otherwise traded in in any place within Zambia or as to use in relation to goods to be exported to any market outside Zambia;

"mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral or any combination thereof;

"patent agent" means a person who is registered as such in terms of subsection (1) of section *sixty-eight* of the Patents Act, and is by virtue of the provisions of that Act entitled to practise as a patent agent;

"permitted use" has the meaning assigned to it by subsection (1) of section *thirty-three*;

"register" means the register of trade marks kept under the provisions of

this Act;

"register of trade mark agents" means the register of trade mark agents kept under subsection (1) of section *eighty-six*;

"registered trade mark" means a trade mark that is actually on the register;

"registered user" means a person who is for the time being registered as such under section *thirty-three*;

"Registrar" means the Registrar of Trade Marks appointed under section *five*;

"regulations" means regulations made under section *eighty-one*;

"trade mark" means, except in relation to a certification trade mark, a mark used or proposed to be used in relation to goods for the purpose of indicating, or so as to indicate, a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the mark, whether with or without any indication of the identity of that person, and means, in relation to a certification trade mark, a mark registered or deemed to have been registered under section *forty-two*;

"trade mark agent" means a person who is-

(a) registered as a trade mark agent in terms of subsection (2) of section *eighty-six*; or

(b) a legal practitioner or patent agent entitled to practise as a trade mark agent in terms of section *eighty-eight*;

"Trade Marks Office" means the Trade Marks Office established under section *three*;

"transmission" means transmission by operation of law, devolution on the legal representative of a deceased person and any other mode of transfer not being assignment;

(2) References in this Act to the use of a mark shall be construed as references to the use of a printed or other visual representation of the mark, and references therein to the use of a mark in relation to goods shall be construed as references to the use thereof upon, or in physical or other relation to, goods.

(As amended by No. 2 of 1962, G.N. No. 186 of 1964 and S.I. No. 175 of 1965)

PART II

ADMINISTRATION

3. There shall be established under the direction of the Minister an office to be called the Trade Marks Office. Establishment of Trade Marks Office
4. The seal of the Patent Office, kept in terms of the Patents Act, shall also be the seal of the Trade Marks Office, and impressions thereof made for the purposes of this Act shall be judicially noticed. Seal. Cap. 400
5. There shall be-
- (a) a Registrar of Trade Marks who shall exercise the powers and perform the duties assigned to the Registrar by this Act and shall be responsible for its administration;
- (b) one or more Deputy Registrars of Trade Marks who shall, subject to the control of the Registrar, have all the powers conferred by this Act on the Registrar;
- (c) such examiners and other officers as may be necessary for carrying out the provisions of this Act. Appointment of officers
6. (1) There shall be kept at the Trade Marks Office for the purposes of this Act the record called the register of trade marks wherein shall be entered all registered trade marks with the names, addresses and descriptions of their proprietors, notifications of assignments and transmissions, the names, addresses and descriptions of all registered users, disclaimers, conditions, limitations and such other matters relating to registered trade marks as may be prescribed. Register of trade marks
- (2) The register shall be divided into four parts which shall be known as Part A, Part B, Part C and Part D respectively.
- (3) All registers of trade marks established and kept under the Registration of Trade Marks Act, Chapter 207 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") shall, under arrangements made by the Registrar with the approval of the Minister, be incorporated with and form part of the register established under subsection (1).

(4) Any trade mark which was registered under such legislation and was of force and effect thereunder immediately before the commencement of this Act and was of force and effect in the former Protectorate of Northern Rhodesia on the 24th October, 1964, shall continue of force and effect in Zambia for the unexpired portion of the period for which at that date it was of force and effect.

(5) Subject to the provisions of this Act, the register of trade marks shall, at all convenient times, be open to inspection by the public, and certified copies, sealed with the seal of the Patent Office, of any entry in the register shall be given to any person requiring them on payment of the prescribed fee.

(6) No notice of any trust, whether expressed, implied or constructive, shall be entered in the register, and the Registrar shall not be affected by any such notice.

(As amended by S.I. No. 175 of 1965)

PART III

EFFECT OF REGISTRATION AND THE ACTION FOR INFRINGEMENT

7. No person shall be entitled to institute any proceedings to prevent or to recover damages for the infringement of an unregistered trade mark, but nothing in this Act shall be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof.	No action for infringement of unregistered trade mark
--	---

8. A trade mark must be registered in respect of particular goods or classes of goods, and any question arising as to the class within which any goods fall shall be determined by the Registrar whose decision shall be final.	Registration to be in respect of particular goods
--	---

9. (1) Subject to the provisions of this section and of sections <i>twelve</i> and <i>thirteen</i> , the registration of a person in Part A of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the exclusive right to the use of	Right given by registration in Part A and infringement
--	--

the trade mark in relation to those goods and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a registered user thereof using by way of the permitted use, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion in the course of trade in relation to any goods in respect of which it is registered and in such manner as to render the use of the mark likely to be taken either- thereof

(a) as being used as a trade mark; or

(b) in a case in which the use is use upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as referring-

(i) to some person having the right either as proprietor or as registered user to use the trade mark; or

(ii) to goods with which such a person as aforesaid is connected in the course of trade.

(2) The right to use of a trade mark given by registration as aforesaid shall be subject to any conditions or limitations entered on the register, and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market or in any other circumstances to which, having regard to any such limitations, the registration does not extend.

(3) The right to the use of a trade mark given by registration as aforesaid shall not be deemed to be infringed by the use of any such mark as aforesaid by any person-

(a) in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark if, as to those goods or a bulk of which they form a part, the proprietor or the registered user conforming to the permitted use has applied the trade mark and has not subsequently removed or obliterated it or has at any time expressly or impliedly consented to the use of the trade mark; or

(b) in relation to goods adapted to form part of, or to be accessory to, other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to

indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact a connection in the course of trade between any person and the goods.

(4) The use of a registered trade mark, being one of two or more registered trade marks that are identical or nearly resemble each other, in exercise of the right to the use of that trade mark given by registration as aforesaid shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

10. (1) Except as provided by subsection (2), the registration of a person in Part B of the register as proprietor of a trade mark in respect of any goods shall, if valid, give or be deemed to have given to that person the like right in relation to those goods as if the registration had been in Part A of the register, and the provisions of section *nine* shall have effect in like manner in relation to a trade mark registered in Part B of the register as they have effect in relation to a trade mark registered in Part A of the register.

Right given by registration in Part B and infringement thereof

(2) In any action for infringement of the right to the use of a trade mark given by registration as aforesaid in Part B of the register, otherwise than by an act that is deemed to be an infringement by virtue of section *eleven*, no injunction, interdict or other relief shall be granted to the plaintiff if the defendant establishes to the satisfaction of the High Court that the use of which the plaintiff complains is not likely to deceive or cause confusion or to be taken as indicating a connection in the course of trade between the goods and some person having the right either as proprietor or as registered user to use the trade mark.

11. (1) Where, by a contract in writing made with the proprietor or a registered user of a registered trade mark, a purchaser or owner of goods enters into an obligation to the effect that he will not do, in relation to the goods, an act to which this section applies, any person who, being the owner for the time being of the goods and having notice of the obligation, does that act or authorises it to be done, in relation to the goods, in the course of trade or with a view to any dealing therewith in the course of trade shall be deemed thereby to infringe the right to the use of the trade mark given by the registration thereof, unless that person became the owner of the goods by purchase for money or money's worth in good faith before receiving notice of the obligation or by virtue of a title derived through another who so became the owner thereof.

Infringement by breach of certain restrictions

(2) The acts to which this section applies are-

(a) the application of the trade mark upon the goods after they have suffered alteration in any manner specified in the contract as respects their state or condition, get-up or packing;

(b) in a case in which the trade mark is upon the goods, the alteration, part removal or part obliteration thereof;

(c) in a case in which the trade mark is upon the goods and there is also thereon other matter, being matter indicating a connection in the course of trade between the proprietor or registered user and the goods, the removal or obliteration, whether wholly or partly, of the trade mark unless that other matter is wholly removed or obliterated;

(d) in a case in which the trade mark is upon the goods, the application of any other trade mark to the goods;

(e) in a case in which the trade mark is upon the goods, the addition to the goods of any other matter in writing that is likely to injure the reputation of the trade mark.

(3) In this section, references, in relation to any goods, to the proprietor, to a registered user and to the registration of a trade mark shall be construed, respectively, as references to the proprietor in whose name the trade mark is registered, to a registered user who is registered and to the registration of the trade mark, in respect of those goods, and the expression "upon" includes, in relation to any goods, a reference to physical relation thereto.

12. Nothing in this Act shall entitle the proprietor or a registered user of a registered trade mark to interfere with or restrain the use by any person of a trade mark identical with or nearly resembling it, in relation to goods, in relation to which that person or a predecessor in title of his has continuously used that trade mark from a date anterior-

Saving for
vested rights

(a) to the use of the first-mentioned trade mark in relation to those goods by the proprietor or a predecessor in title of his; or

(b) to the registration of the first-mentioned trade mark in respect of those goods in the name of the proprietor or a predecessor in title of his;

whichever is the earlier, or to object (on such use being proved) to that person being put on the register for that identical or nearly resembling trade mark in respect of those goods under subsection (2) of section *seventeen*.

13. No registration of a trade mark shall interfere with-

(a) any *bona fide* use by a person of his own name or of the name of his place of business, or of the name or of the name of the place of business of any of his predecessors in business; or

(b) the use by any person of any *bona fide* description of the character or quality of his goods, not being a description that would be likely to be taken as importing any such reference as is mentioned in paragraph (b) of subsection (1) of section *nine* or in paragraph (b) of subsection (3) of section *forty-two*.

Saving for use of name, address or description of goods

PART IV

REGISTRABILITY AND VALIDITY OF REGISTRATION

14. (1) In order for a trade mark (other than a certification trade mark) to be registrable in Part A of the register, it must contain or consist of at least one of the following essential particulars:

Distinctiveness requisite for registration in Part A

(a) the name of a company, individual or firm, represented in a special or particular manner;

(b) the signature of the applicant for registration or some predecessor in his business;

(c) an invented word or invented words;

(d) a word or words having no direct reference to the character or quality of the goods and not being, according to its ordinary signification, a geographical name or a surname;

(e) any other distinctive mark, but a name, signature or word or words, other than such as fall within the descriptions in the foregoing

paragraphs (a), (b), (c) and (d), shall not be registrable under the provisions of this paragraph except upon evidence of its distinctiveness.

(2) For the purposes of this section, "distinctive" means adapted, in relation to the goods in respect of which a trade mark is registered or proposed to be registered, to distinguish goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

(3) The Registrar, or the High Court in the event of an appeal from a decision of the Registrar, in determining whether a trade mark is adapted to distinguish as aforesaid, may have regard to the extent to which-

(a) the trade mark is inherently adapted to distinguish as aforesaid; and

(b) by reason of the use of the trade mark or of any other circumstances, the trade mark is, in fact, adapted to distinguish as aforesaid.

(4) An appeal shall lie from any decision of the Registrar under this section.

(As amended by Act No. 17 of 1980)

15. (1) In order for a trade mark to be registrable in Part B of the register, it must be capable, in relation to the goods in respect of which it is registered or proposed to be registered, of distinguishing goods with which the proprietor of the trade mark is or may be connected in the course of trade from goods in the case of which no such connection subsists, either generally or, where the trade mark is registered or proposed to be registered subject to limitations, in relation to use within the extent of the registration.

Capability of
distinguishing
requisite for
registration in
Part B

(2) In determining whether a trade mark is capable of distinguishing as aforesaid, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may have regard to the extent to which-

(a) the trade mark is inherently capable of distinguishing as aforesaid; and

(b) by reason of the use of the trade mark or of any other circumstances, the trade mark is, in fact, capable of distinguishing as aforesaid.

(3) A trade mark may be registered in Part B notwithstanding any registration in Part A in the name of the same proprietor of the same trade mark or any part or parts thereof.

(4) An appeal shall lie from any decision of the Registrar under this section.

(As amended by Act No. 17 of 1980)

16. It shall not be lawful to register as a trade mark or part of a trade mark any matter the use of which would, by reason of its being likely to deceive or cause confusion or otherwise, be disentitled to protection in a court of justice or would be contrary to law or morality, or any scandalous design.	Prohibition of registration of deceptive, etc., matter
--	--

17. (1) Subject to the provisions of subsection (2), no trade mark shall be registered in respect of any goods or description of goods that is identical with a trade mark belonging to a different proprietor and already on the register in respect of the same goods or description of goods, or that so nearly resembles such a trade mark as to be likely to deceive or cause confusion.	Prohibition of registration of identical and resembling trade marks
--	---

(2) In the case of honest current use or other special circumstances which, in the opinion of the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, make it proper so to do, the Registrar or the High Court as the case may be, may permit the registration of trade marks that are identical or nearly resemble each other in respect of the same goods or description of goods by more than one proprietor subject to such conditions and limitations, if any, as the Registrar or the High Court may think it right to impose.

(3) Where separate applications are made by different persons to be registered as proprietors respectively of trade marks that are identical or

nearly resemble each other in respect of the same goods or description of goods, the Registrar may refuse to register any of them until their rights have been determined by the Tribunal or have been settled by agreement in a manner approved by him or on an appeal by the Tribunal.

(As amended by Act No. 17 of 1980)

18. (1) In all legal proceedings relating to a trade mark registered in Part A of the register (including applications under section *thirty-seven*), the original registration in Part A of the register of the trade mark shall, after the expiration of seven years from the date of that registration, be taken to be valid in all respects, unless-

Registration in Part A to be conclusive as to validity after seven years

- (a) that registration was obtained by fraud; or
- (b) the trade mark offends against the provisions of section *sixteen*.

(2) Nothing in subsection (1) of section *ten* shall be construed as making applicable to a trade mark, as being a trade mark registered in Part B of the register, the foregoing provisions of this section relating to a trade mark registered in Part A of the register.

19. If a trade mark-

- (a) contains any part not separately registered by the proprietor as a trade mark; or
- (b) contains matter common to the trade or otherwise of a non-distinctive character;

Registration subject to disclaimer

the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, in deciding whether the trade mark shall be entered or shall remain on the register, may require as a condition of its being on the register-

- (i) that the proprietor shall disclaim any right to the exclusive use of any part of the trade mark or to the exclusive use of all or any portion of such trade mark as aforesaid, to the exclusive use of which the Registrar or the High Court holds him not to be entitled; or
- (ii) that the proprietor shall make such other disclaimer as the Registrar or the High Court may consider necessary for the purposes of defining his rights under the registrations:

Provided that no disclaimer on the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made.

(As amended by Act No. 17 of 1980)

20. (1) The registration of a trade mark shall not be deemed to have become invalid by reason only of any use, after the date of the registration, of a word or words which the trade mark contains, or of which it consists, as the name or description of an article or substance:	Words used as name or description of an article or substance
---	--

Provided that, if it is proved either-

(i) that there is a well-known and established use of the word or words as the name or description of the article or substance by a person or persons carrying on a trade therein, not being use in relation to goods connected in the course of trade with the proprietor or a registered user of the trade mark or (in the case of a certification trade mark) goods certified by the proprietor; or

(ii) that the article or substance was formerly manufactured under a patent, that a period of two years or more after the cesser of the patent has elapsed, and that the word or words is or are the only practicable name or description of the article or substance;

the provisions of subsection (2) shall have effect.

(2) Where the facts mentioned in paragraph (i) or (ii) of the proviso to subsection (1) are proved with respect to any word or words, then-

(a) if the trade mark consists solely of that word or those words, the registration of the trade mark, so far as regards registration in respect of the article or substance in question or of any goods of the same description, shall be deemed, for the purposes of section *thirty-seven*, to be an entry wrongly remaining on the register;

(b) if the trade mark contains that word or those words and other matter, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, in deciding whether the trade mark shall remain on the register, so far as regards registration in respect of the article or substance in question and of any goods of the same description, may, in case of a decision in favour of its remaining on the register, require as a condition thereof that the proprietor shall disclaim any right to the exclusive use in relation to that article or substance and any goods of the same description of that word or those words, so,

however, that no disclaimer on the register shall affect any rights of the proprietor of a trade mark except such as arise out of the registration of the trade mark in respect of which the disclaimer is made; and

(c) for the purposes of any other legal proceedings relating to the trade mark-

(i) if the trade mark consists solely of that word or those words, all rights of the proprietor, whether under the common law or by registration, to the exclusive use of the trade mark in relation to the article or substance in question or to any goods of the same description; or

(ii) if the trade mark contains that word or those words and other matter, all such rights of the proprietor to the exclusive use of that word or those words in such relation as aforesaid;

shall be deemed to have ceased on the date at which the use mentioned in paragraph (i) of the proviso to subsection (1) first became well known and established or at the expiration of the period of two years mentioned in paragraph (ii) of that proviso.

(3) No word which is the commonly used and accepted name of any single chemical element or single chemical compound, as distinguished from a mixture, shall be registered as a trade mark in respect of a chemical substance or preparation, and any such registration in force at the commencement of this Act or thereafter shall, notwithstanding anything in section *eighteen*, be deemed, for the purposes of section *thirty-seven*, to be an entry made in the register without sufficient cause, or an entry wrongly remaining on the register, as the circumstances may require:

Provided that the foregoing provisions of this subsection shall not have effect in relation to a word which is used to denote only a brand or make of the element or compound as made by the proprietor or a registered user of the trade mark, as distinguished from the element or compound as made by others, and in association with a suitable name or description open to public use.

(As amended by Act No. 17 of 1980)

21. (1) A trade mark may be limited in whole or in part to one or more specified colours, and in any such case the fact that it is so limited shall be taken into consideration by the Registrar, or by the High Court in the

Effect of
limitation as to
colour and of

event of an appeal from a decision of the Registrar, in deciding on the absence thereof distinctive character of the trade mark.

(2) If and so far as a trade mark is registered without limitation of colour, it shall be deemed to be registered for all colours.

(As amended by Act No. 17 of 1980)

PART V

PROCEDURE FOR, AND DURATION OF, REGISTRATION

22. (1) Any person claiming to be the proprietor of a trade mark used or proposed to be used by him who is desirous of registering it must apply in writing to the Registrar in the prescribed manner for registration either in Part A or in Part B of the register. Application for registration

(2) A proprietor of a trade mark who immediately prior to the commencement of this Act owned a trade mark registered in respect of the same classification of goods in Southern Rhodesia, Nyasaland and the former Protectorate of Northern Rhodesia may, on application made in writing in the prescribed manner within twelve months of such date and without further compliance with the provisions of this Part, obtain registration of such mark in respect of such goods under the provisions of this Act, which shall be dated with the date of the trade mark first registered in any such territory and shall expire on the date on which it would expire under the provisions of the law relating to trade marks of the territory in which it was last registered.

(3) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it absolutely or subject to such amendments, modifications, conditions or limitations, if any, as he may think right.

(4) In the case of an application for registration of a trade mark (other than a certification trade mark) in Part A of the register, the Registrar may, if the applicant is willing, instead of refusing the application, treat it as an application for registration in Part B and deal with the application accordingly.

(5) In the case of a refusal or conditional acceptance, the Registrar shall, if required by the applicant, state in writing the grounds of his decision and the materials used by him in arriving thereat, and the decision of the Registrar shall be subject to appeal.

(6) An appeal under this section shall be heard in accordance with the provisions of Part XI.

(7) Appeals under this section shall be heard on the materials stated as aforesaid by the Registrar, and no further grounds of objection to the acceptance of the application shall be allowed to be taken by the Registrar, other than those so stated as aforesaid by him, except by leave of the High Court. Where any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of costs on giving notice as prescribed.

(8) The Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may at any time, whether before or after acceptance, correct any error in or in connection with the application or may permit the applicant to amend his application upon such terms as the Registrar or the High Court may think right.

*(As amended by S.I. No. 175 of 1965
and Act No. 17 of 1980)*

23. (1) When an application for registration of a trade mark has been accepted, whether absolutely or subject to conditions or limitations, the applicant shall, as soon as may be after acceptance, advertise the application as accepted in the prescribed manner, and the advertisement shall set forth all conditions and limitations subject to which the application has been accepted:

Opposition to
registration and
appeals

Provided that the Registrar may direct that an application shall be advertised before acceptance if it is made under paragraph (e) of subsection (1) of section *fourteen*, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do, and where an application has been so advertised, the Registrar may, if he thinks fit, direct that it shall be advertised again when it has been accepted, but shall not be bound so to do.

(2) Any person may, within the prescribed time from the date of the advertisement of an application, give notice to the Registrar of opposition to the registration.

(3) The notice shall be given in writing in the prescribed manner and shall include a statement of the grounds of opposition.

(4) The Registrar shall send a copy of the notice to the applicant and, within the prescribed time after receipt thereof, the applicant shall send to the Registrar, in the prescribed manner, a counter-statement of the grounds on which he relies for his application, and if he does not do so, he shall be deemed to have abandoned his application.

(5) If the applicant sends such a counter-statement as aforesaid, the Registrar shall furnish a copy thereof to the persons giving notice of opposition, and shall, after hearing the parties, if so required, and considering the evidence, decide whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(6) An appeal shall lie from any decision of the Registrar under this section.

(7) An appeal under this section shall be made in the prescribed form and manner, and on the appeal the High Court shall, if required, hear the parties and the Registrar, and shall make an order determining whether, and subject to what conditions or limitations, if any, registration is to be permitted.

(8) On the hearing of an appeal under this section, any party may, either in the manner prescribed or by special leave of the High Court, bring forward further material for the consideration of the High Court.

(9) On an appeal under this section, no further grounds of objection to the registration of a trade mark shall be allowed to be taken by the opponent or the Registrar, other than those so stated as aforesaid by the opponent, except by leave of the High Court. Where any further grounds of objection are taken, the applicant shall be entitled to withdraw his application without payment of the costs of the opponent on giving notice as prescribed.

(10) On an appeal under this section, the High Court may, after hearing the Registrar, permit the trade mark proposed to be registered to be modified in any manner not substantially affecting the identity thereof, but in any such case the trade mark as so modified shall be advertised in the prescribed manner before being registered.

(As amended by Act No. 17 of 1980)

24. (1) When an application for registration of a trade mark has been accepted, and either- Registration

(a) the application has not been opposed and the time for notice of opposition has expired; or

(b) the application has been opposed and the opposition has been decided in favour of the applicant;

the Registrar shall, unless the application has been accepted in error or unless the High Court otherwise directs, register the trade mark, and the trade mark, when registered, shall be registered as of the date of the application for registration, and that date shall be deemed, for the purposes of this Act, to be the date of registration:

Provided that the foregoing provisions of this subsection, relating to the date as of which a trade mark shall be registered and to the date to be deemed to be the date of registration, shall, as respects a trade mark registered under this Act with the benefit of any enactment relating to international arrangements, have effect subject to the provisions of that enactment.

(2) On the registration of a trade mark, the Registrar shall issue to the applicant a certificate in the prescribed form of the registration thereof sealed with the seal of the Patent Office.

(3) Where registration of a trade mark is not completed within twelve months from the date of the application by reason of default on the part of the applicant, the Registrar may, after giving notice of the non-completion to the applicant in writing in the prescribed manner, treat the application as abandoned, unless it is completed within the time specified in that behalf in the notice.

(As amended by Act No. 17 of 1980)

25. (1) The registration of a trade mark shall be for a period of seven years, but may be renewed from time to time in accordance with the provisions of this section. Duration and renewal of registration

(2) The Registrar shall, on application made by the registered proprietor of a trade mark in the prescribed manner and within the prescribed period, renew the registration of the trade mark for a period of fourteen years from the date of expiration of the original registration or of the last renewal of registration, which date is in this section referred to as "the expiration of the last registration".

(3) At the prescribed time before the expiration of the last registration of a trade mark, the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with, the Registrar may remove the trade mark from the register, subject to such conditions, if any, as to its restoration to the register as may be prescribed.

(4) The Registrar shall remove from the register any trade mark which immediately before the commencement of this Act was registered in terms of any law relating to trade marks and which, according to the law of the registering country, as defined by any such law, ceased to be a valid registration.

(5) Where a trade mark has been removed from the register for non-payment of the fee for renewal, it shall, nevertheless, for the purpose of any application for the registration of a trade mark during one year next after the date of the removal, be deemed to be a trade mark that is already on the register:

Provided that the foregoing provisions of this subsection shall not have effect where the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, is satisfied either-

(i) that there has been no *bona fide* trade use of the trade mark that has been removed during the three years immediately preceding its

removal; or

(ii) that no deception or confusion would be likely to arise from the use of the trade mark that is the subject of the application for registration by reason of any previous use of the trade mark that has been removed.

(As amended by Act No. 17 of 1980)

26. (1) Where the proprietor of a trade mark claims to be entitled to the exclusive use of any part thereof separately, he may apply to register the whole and any such part as separate trade marks. Each separate trade mark must satisfy all the conditions of an independent trade mark and shall, subject to the provisions of subsection (3) of section *twenty-eight* and subsection (2) of section *thirty-five*, have all the incidents of an independent trade mark.

Registration of parts of trade marks and of trade marks as a series

(2) Where a person claiming to be the proprietor of several trade marks, in respect of the same goods or description of goods, which, while resembling each other in the material particulars thereof, yet differ in respect of-

(a) statements of the goods in relation to which they are respectively used or proposed to be used; or

(b) statements of number, price, quality or names of places; or

(c) other matter of a non-distinctive character which does not substantially affect the identity of the trade mark; or

(d) colour;

seeks to register those trade marks, they may be registered as a series in one registration.

PART VI

ASSIGNMENT AND TRANSMISSION

27. (1) Notwithstanding any rule or law to the contrary, a registered trade mark shall be, and shall be deemed always to have been,

Powers of, and restrictions on,

assignable and transmissible either in connection with the goodwill of a business or not. assignment and transmission

(2) A registered trade mark shall be, and shall be deemed always to have been, assignable and transmissible in respect either of all the goods in respect of which it is registered, or was registered, as the case may be, or of some (but not all) of those goods.

(3) The provisions of subsections (1) and (2) shall have effect in the case of an unregistered trade mark used in relation to any goods as they have effect in the case of a registered trade mark registered in respect of any goods, if at the time of the assignment or transmission of the unregistered trade mark it is or was used in the same business as a registered trade mark and if it is or was assigned or transmitted at the same time and to the same person as that registered trade mark and in respect of goods all of which are goods in relation to which the unregistered trade mark is or was used in that business and in respect of which that registered trade mark is or was assigned or transmitted.

(4) Notwithstanding anything in subsections (1) to (3), a trade mark shall not be, or be deemed to have been, assignable or transmissible in a case in which as a result of an assignment or transmission there would in the circumstances subsist, or have subsisted, whether under the common law or by registration, exclusive rights in more than one of the persons concerned to the use, in relation to the same goods or description of goods, of trade marks nearly resembling each other or of identical trade marks, if, having regard to the similarity of the goods and of the trade marks, the use of the trade marks in exercise of those rights would be, or have been, likely to deceive or cause confusion:

Provided that, where a trade mark is, or has been, assigned or transmitted in such a case as aforesaid, the assignment or transmission shall not be deemed to be, or to have been, invalid under this subsection if the exclusive rights subsisting as a result thereof in the persons concerned respectively are, or were, having regard to limitations imposed thereon, such as not to be exercisable by two or more of those persons in relation to goods to be sold or otherwise traded in within Zambia (otherwise than for export therefrom) or in relation to goods to be exported to the same market outside Zambia.

(5) The proprietor of a registered trade mark who proposes to assign it

in respect of any goods in respect of which it is registered may submit to the Registrar in the prescribed manner a statement of case setting out the circumstances, and the Registrar may issue to him a certificate stating whether, having regard to the similarity of the goods and of the trade marks referred to in the case, the proposed assignment of the first-mentioned trade mark would or would not be invalid under subsection (4), and a certificate so issued shall, subject to the provisions of this section as to appeal and unless it is shown that the certificate was obtained by fraud or misrepresentation, be conclusive as to the validity or invalidity under subsection (4) of the assignment in so far as such validity or invalidity depends upon the facts set out in the case, but, as regards a certificate in favour of validity, only if application for the registration under section *thirty* of the title of the person becoming entitled is made within six months from the date on which the certificate is issued.

(6) Notwithstanding anything in subsections (1) to (3), a trade mark shall not, on or after the commencement of this Act, be assignable or transmissible in a case in which as a result of an assignment or transmission thereof there would in the circumstances subsist, whether under the common law or by registration, an exclusive right in one of the persons concerned to the use of the trade mark limited to use in relation to goods to be sold or otherwise traded in in a place or places in Zambia and an exclusive right in another of those persons to the use of a trade mark nearly resembling the first-mentioned trade mark or of an identical trade mark in relation to the same goods or description of goods limited to use in relation to goods to be sold or otherwise traded in in another place or other places in Zambia:

Provided that on application in the prescribed manner by the proprietor of a trade mark who proposes to assign it, or of a person who claims that a trade mark has been transmitted to him or to a predecessor in title of his on or after the commencement of this Act, in any such case, the Registrar, if he is satisfied that in all the circumstances the use of the trade marks in exercise of the said rights would not be contrary to the public interest, may approve the assignment or transmission, and an assignment or transmission so approved shall not be deemed to be, or to have been, invalid under this subsection or under subsection (4), so, however, that in the case of a registered trade mark this provision shall not have effect unless application for the registration under section *thirty* of the title of the person becoming entitled is made within six months from the date on which the approval is given or, in the case of a transmission, was made before that date.

(7) Where an assignment in respect of any goods of a trade mark that is at the time of the assignment used in a business in those goods is made, on or after the commencement of this Act, otherwise than in connection with the goodwill of that business, the assignment shall not take effect until the following requirements have been satisfied, that is to say, the assignee must, not later than the expiration of six months from the date on which the assignment is made or within such extended period, if any, as the Registrar may allow, apply to him for directions with respect to the advertisement of the assignment and must advertise it in such form and manner and within such period as the Registrar may direct.

(8) An appeal shall lie from any decision of the Registrar under this section.

(As amended by G.N. No. 186 of 1964)

28. (1) Trade marks that are registered as, or that are deemed by virtue of this Act to be, associated trade marks shall be assignable and transmissible only as a whole and not separately, but they shall for all other purposes be deemed to have been registered as separate trade marks.

Certain trade marks to be associated so as to be assignable and transmissible as a whole only

(2) Where a trade mark that is registered, or is the subject of an application for registration, in respect of any goods is identical with another trade mark that is registered, or is the subject of an application for registration, in the name of the same proprietor in respect of the same goods or description of goods, or so nearly resembles it as to be likely to deceive or cause confusion if used by a person other than the proprietor, the Registrar may at any time require that the trade marks shall be entered on the register as associated trade marks.

(3) Where a trade mark and any part or parts thereof are, by virtue of subsection (1) of section *twenty-six*, registered as separate trade marks in the name of the same proprietor, they shall be deemed to be, and shall be registered as, associated trade marks.

(4) All trade marks that are, by virtue of subsection (2) of section *twenty-six*, registered as a series in one registration shall be deemed to be, and shall be registered as, associated trade marks.

(5) On application made in the prescribed manner by the registered proprietor of two or more trade marks registered as associated trade marks, the Registrar may dissolve the association as respects any of them if he is satisfied that there would be no likelihood of deception or confusion being caused if that trade mark were used by another person in relation to any of the goods in respect of which it is registered and may amend the register accordingly.

(6) An appeal shall lie from any decision of the Registrar under this section.

29. Subject to the provisions of this Act, the person for the time being entered in the register as proprietor of a trade mark shall, subject to any rights appearing from the register to be vested in any other person, have power to assign the trade mark and to give effectual receipts for any consideration for an assignment thereof.	Power of registered proprietor to assign and give receipts
--	--

30. (1) Where a person becomes entitled by assignment or transmission to a registered trade mark, he shall make application to the Registrar to register his title, and the Registrar shall, on receipt of the application and on proof of title to his satisfaction, register him as the proprietor of the trade mark in respect of the goods in respect of which the assignment or transmission has effect, and shall cause particulars of the assignment or transmission to be entered on the register.	Registration of assignments and transmissions
---	---

(2) An appeal shall lie from any decision of the Registrar under this section.

(3) Except for the purposes of an appeal under this section or of an application under section *thirty-seven*, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of subsection (1) shall not be admitted in evidence in any court in proof of the title to a trade mark unless the court otherwise directs.

PART VII

USE AND NON-USE

31. (1) Subject to the provisions of section *thirty-two*, a registered trade mark may be taken off the register in respect of any of the goods in respect of which it is registered on application by any person aggrieved to the High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, on the ground either-

Removal from register and imposition of limitation

(a) that the trade mark was registered without any *bona fide* intention on the part of the applicant for registration that it should be used in relation to those goods by him and that there has in fact been no *bona fide* use of the trade mark in relation to those goods by any proprietor thereof for the time being up to the date one month before the date of the application; or

(b) that up to the date one month before the date of the application a continuous period of five years or longer elapsed during which the trade mark was a registered trade mark and during which there was no *bona fide* use thereof in relation to those goods by any proprietor thereof for the time being:

Provided that (except where the applicant has been permitted under subsection (2) of section *seventeen* to register an identical or nearly resembling trade mark in respect of the goods in question or where the High Court or the Registrar, as the case may be, is of opinion that he might properly be permitted so to register such a trade mark), the High Court or the Registrar may refuse an application made under paragraph (a) or (b) in relation to any goods, if it is shown that there has been, before the relevant date or during the relevant period, as the case may be, *bona fide* use of the trade mark by any proprietor thereof for the time being in relation to goods of the same description, being goods in respect of which the trade mark is registered.

(2) Where, in relation to any goods in respect of which a trade mark is registered-

(a) the matters referred to in paragraph (b) of subsection (1) are shown so far as regards non-use of the trade mark in relation to goods to be sold or otherwise traded in in a particular place in Zambia (otherwise than for export from Zambia) or in relation to goods to be exported to a particular market outside Zambia; and

(b) a person has been permitted under subsection (2) of section *seventeen* to register an identical or nearly resembling trade mark in respect of those goods under a registration extending to use in relation to goods to be sold or otherwise traded in in that place (otherwise than for export from Zambia) or in relation to goods to be exported to that market or the High Court or the Registrar is of opinion that he might properly be permitted so to register such a trade mark;

on application by that person to the High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, the High Court or the Registrar may impose on the registration of the first-mentioned trade mark such limitations as the High Court or the Registrar thinks proper for securing that that registration shall cease to extend to such use as last aforesaid.

(3) An applicant shall not be entitled to rely for the purposes of paragraph (b) of subsection (1), or for the purposes of subsection (2), on any non-use of a trade mark that is shown to have been due to special circumstances in the trade and not to any intention not to use or to abandon the trade mark in relation to the goods to which the application relates.

(As amended by G.N. No. 186 of 1964
and Act No. 17 of 1980)

32. (1) Where a trade mark registered in Part A of the register has become so well known as respects any goods in respect of which it has been used that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the trade mark in relation to the first-mentioned goods, then, notwithstanding that the proprietor registered in respect of the first-mentioned goods does not use or propose to use that trade mark in relation to those other goods and notwithstanding anything in section *thirty-one*, the trade mark may, on the application in writing in the prescribed manner of the proprietor registered in respect of the first-mentioned goods, be registered in Part D of the register in his name in respect of those other goods as a defensive trade mark and, while so registered, shall not be liable to be taken off the register in respect of those goods under section *thirty-one*.

Defensive
registration of
well-known
trade marks

(2) The registered proprietor of a trade mark may apply for the registration thereof in respect of any goods as a defensive trade mark, notwithstanding that it is already registered in his name in respect of

those goods otherwise than as a defensive trade mark, or may apply for the registration thereof in respect of any goods otherwise than as a defensive trade mark, notwithstanding that it is already registered in his name in respect of those goods as a defensive trade mark, in lieu in each case of the existing registration.

(3) A trade mark registered as a defensive trade mark and that trade mark as otherwise registered in the name of the same proprietor shall, notwithstanding that the respective registrations are in respect of different goods, be deemed to be, and shall be registered as, associated trade marks.

(4) On application by any person aggrieved to the High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, the registration of a trade mark as a defensive trade mark may be cancelled on the ground that the requirements of subsection (1) are no longer satisfied in respect of any goods in respect of which the trade mark is registered in the name of the same proprietor otherwise than as a defensive trade mark or may be cancelled as respects any goods in respect of which it is registered as a defensive trade mark on the ground that there is no longer any likelihood that the use of the trade mark in relation to those goods would be taken as giving the indication mentioned in subsection (1).

(5) The Registrar may at any time cancel the registration as a defensive trade mark of a trade mark of which there is no longer any registration in the name of the same proprietor otherwise than as a defensive trade mark.

(6) Except as otherwise expressly provided in this section, the provisions of this Act shall apply in respect of the registration of trade marks as defensive trade marks and of trade marks so registered as they apply in other cases, and the provisions of section *nine* relating to the infringement of a trade mark registered in Part A of the register shall apply to the infringement of any defensive trade mark registered in terms of this section if that registration is valid.

(As amended by Act No. 17 of 1980)

33. (1) Subject to the provisions of this section, a person other than the proprietor of a trade mark registered in either Part A or Part B of the register may be registered as a registered user thereof in respect of all or

Registered
users

any of the goods in respect of which it is registered (otherwise than as a certification or defensive trade mark) and either with or without conditions or restrictions. The use of a trade mark by a registered user thereof in relation to goods with which he is connected in the course of trade and in respect of which for the time being the trade mark remains registered and he is registered as a registered user, being use such as to comply with any conditions or restrictions to which his registration is subject, is in this Act referred to as the "permitted use" thereof.

(2) The permitted use of a trade mark shall be deemed to be use by the proprietor thereof and shall be deemed not to be use by a person other than the proprietor for the purposes of section *thirty-one* and for any other purpose for which such use is material under this Act or at common law.

(3) Subject to any agreement subsisting between the parties, a registered user of a trade mark shall be entitled to call upon the proprietor thereof to take proceedings to prevent infringement thereof and, if the proprietor refuses or neglects to do so within two months after being so called upon, the registered user may institute proceedings for infringement in his own name as if he were the proprietor, making the proprietor a defendant. A proprietor so added as defendant shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(4) Where it is proposed that a person should be registered as a registered user of a trade mark, the proprietor and the proposed registered user must apply in writing to the Registrar in the prescribed manner and must furnish him with an affidavit or a solemn declaration made by the proprietor or by some person authorised to act on his behalf and approved by the Registrar-

(a) giving particulars of the relationship existing or proposed between the proprietor and the proposed registered user, including particulars showing the degree of control by the proprietor over the permitted use which their relationship will confer and whether it is a term of their relationship that the proposed registered user shall be the sole registered user or that there shall be any other restriction as to persons for whose registration as registered users application may be made;

(b) stating the goods in respect of which registration is proposed;

(c) stating any conditions or restrictions proposed with respect to the characteristics of the goods to the mode or place of permitted use or to any other matter; and

(d) stating whether the permitted use is to be for a period or without limit of period and, if for a period, the duration thereof;

and with such further documents, information or evidence as may be required under the regulations or by the Registrar.

(5) When the requirements of subsection (4) have been complied with, if the Registrar, after considering the information furnished to him under that subsection, is satisfied that in all the circumstances the use of the trade mark in relation to the proposed goods or any of them by the proposed registered user, subject to any conditions or restrictions which the Registrar thinks proper, would not be contrary to the public interest, the Registrar may register the proposed registered user as a registered user in respect of the goods as to which he is so satisfied subject as aforesaid.

(6) The Registrar shall refuse an application under the foregoing provisions of this section if it appears to him that the grant thereof would tend to facilitate trafficking in a trade mark.

(7) The Registrar shall, if so required by an applicant, take steps for securing that information given for the purposes of an application under the foregoing provisions of this section (other than matter entered in the register) is not disclosed to rivals in trade.

(8) Without prejudice to the provisions of section *thirty-seven*, the registration of a person as a registered user-

(a) may be varied by the Registrar as regards the goods in respect of which or any conditions or restrictions subject to which it has effect, on the application in writing in the prescribed manner of the registered proprietor of the trade mark to which the registration relates;

(b) may be cancelled by the Registrar on the application in writing in the prescribed manner of the registered proprietor or of the registered user or of any other registered user of the trade mark; or

(c) may be cancelled by the Registrar on the application in writing in the prescribed manner of any person on any of the following grounds, that is to say:

(i) that the registered user has used the trade mark otherwise than by way of the permitted use or in such a way as to cause or to be likely to cause deception or confusion;

(ii) that the proprietor or the registered user misrepresented or failed to disclose some fact material to the application for the registration or that the circumstances have materially changed since the date of the registration;

(iii) that the registration ought not to have been effected, having regard to rights vested in the applicant by virtue of a contract in the performance of which he is interested.

(9) Provision shall be made by regulations for the notification of the registration of a person as a registered user to any other registered user of the trade mark, and for the notification of an application under subsection (8) to the registered proprietor and each registered user (not being the applicant) of the trade mark, and for giving to the applicant on such an application, and to all persons to whom such an application is notified and who intervene in the proceedings in accordance with the regulations, an opportunity of being heard.

(10) The Registrar may at any time cancel the registration of a person as a registered user of a trade mark in respect of any goods in respect of which the trade mark is no longer registered.

(11) An appeal shall lie from any decision of the Registrar under this section.

(12) Where a person is registered as a registered user of a trade mark on an application made within one year from the commencement of this Act, subsection (2) shall have effect in relation to any previous use in the former Protectorate of Northern Rhodesia (whether before or after the commencement of this Act) of the trade mark by that person, being use in relation to the goods in respect of which he is registered and, where he is registered subject to conditions or restrictions, being use such as to comply substantially therewith, as if such previous use had been permitted use.

(13) Nothing in this section shall confer on a registered user of a trade mark any assignable or transmissible right to the use thereof.

(As amended by S.I. No. 175 of 1965)

34. (1) No application for the registration of a trade mark in respect of any goods shall be refused, nor shall permission for such registration be withheld, on the ground only that it appears that the applicant does not use or propose to use the trade mark-

Proposed use of trade mark by corporation to be constituted, etc.

(a) if the Registrar is satisfied that a body corporate is about to be constituted and that the applicant intends to assign the trade mark to the corporation with a view to the use thereof in relation to those goods by the corporation; or

(b) if the application is accompanied by an application for the registration of a person as a registered user of the trade mark and the Registrar is satisfied that the proprietor intends it to be used by that person in relation to those goods and the Registrar is also satisfied that that person will be registered as a registered user thereof immediately after the registration of the trade mark.

(2) The provisions of section *thirty-one* shall have effect in relation to a trade mark registered under the power conferred by subsection (1) as if for the reference in paragraph (a) of subsection (1) of section *thirty-one* to intention on the part of an applicant for registration that a trade mark should be used by him, there were substituted a reference to intention on his part that it should be used by the corporation or registered user concerned.

(3) Where a trade mark is registered in respect of any goods under the power conferred by subsection (1) in the name of an applicant who relies on intention to assign to a corporation as aforesaid, then, unless within such period as may be prescribed or within such further period not exceeding six months as the Registrar may on application being made to him in the prescribed manner allow, the corporation has been registered as the proprietor of the trade mark in respect of those goods, the registration shall cease to have effect in respect thereof at the expiration of that period, and the Registrar shall amend the register accordingly.

(4) An appeal shall lie from any decision of the Registrar under this section.

35. (1) Where under the provisions of this Act use of a registered trade mark is required to be proved for any purpose, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may, if and so far as the Registrar or the High Court thinks right, accept use of an associated registered trade mark, or of the trade mark with additions or alterations not substantially affecting its identity, as an equivalent for the use required to be proved.

Use of one of associated or substantially identical trade marks equivalent to use of another

(2) The use of the whole of a registered trade mark shall, for the purposes of this Act, be deemed to be also a use of any registered trade mark, being a part thereof, registered in the name of the same proprietor by virtue of subsection (1) of section *twenty-six*.

(As amended by Act No. 17 of 1980)

36. The application in Zambia of a trade mark to goods to be exported from Zambia and any other act done in Zambia in relation to goods to be so exported which, if done in relation to goods to be sold or otherwise traded in in Zambia, would constitute use of a trade mark therein shall be deemed to constitute use of the trade mark in relation to those goods for any purpose for which such use is material under this Act or at common law.

Use of trade mark for export trade

(As amended by G.N. No. 186 of 1964 and Act No. 17 of 1980)

PART VIII

RECTIFICATION AND CORRECTION OF THE REGISTER

37. (1) Any person aggrieved by the non-insertion in or omission from the register of any entry, or by any entry made in the register without sufficient cause, or by any entry wrongly remaining on the register, or by any error or defect in any entry in the register, may apply in the prescribed manner to the High Court or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar, and

General power to rectify entries in register

the High Court or the Registrar may make such order for making, expunging or varying the entry as the High Court or the Registrar may think fit.

(2) The High Court or the Registrar may in any proceeding under this section decide any question that it may be necessary or expedient to decide in connection with the rectification of the register.

(3) In case of fraud in the registration, assignment or transmission of a registered trade mark, the Registrar may himself apply to the High Court under the provisions of this section.

(4) Any order of the High Court rectifying the register shall direct that notice of the rectification shall be served in the prescribed manner on the Registrar, and the Registrar shall on receipt of the notice rectify the register accordingly.

(5) The power to rectify the register conferred by this section shall include power to remove a registration in Part A of the register to Part B.

(As amended by Act No. 17 of 1980)

38. On application by any person aggrieved to the Tribunal or, at the option of the applicant and subject to the provisions of section *sixty-four*, to the Registrar or on application by the Registrar to the High Court, the High Court, or the Registrar may make such order as the High Court or the Registrar may think fit for expunging or varying the registration of a trade mark on the ground of any contravention of or failure to observe a condition entered on the register in relation thereto.

Power to
expunge or vary
registration for
breach of
condition

(As amended by Act No. 17 of 1980)

39. (1) The Registrar may, on request made in the prescribed manner by the registered proprietor-

Correction of
register

(a) correct any error in the name, address or description of the registered proprietor of a trade mark;

(b) enter any change in the name, address or description of the person who is registered as proprietor of a trade mark;

- (c) cancel the entry of a trade mark on the register;
- (d) strike out any goods or classes of goods from those in respect of which a trade mark is registered; or
- (e) enter a disclaimer or memorandum relating to a trade mark which does not in any way extend the rights given by the existing registration of the trade mark.

(2) The Registrar may, on request made in the prescribed manner by a registered user of a trade mark, correct any error or enter any change in the name, address or description of the registered user.

(3) An appeal shall lie from any decision of the Registrar under this section.

40. (1) The registered proprietor of a trade mark may apply in the prescribed manner to the Registrar for leave to add to or alter the trade mark in any manner not substantially affecting the identity thereof, and the Registrar may refuse leave or may grant it on such terms and subject to such limitations as he may think fit.

Alteration of
registered trade
mark

(2) The Registrar may direct that an application under this section shall be advertised in the prescribed manner in any case where it appears to him that it is expedient so to do, and where he does so, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar in the prescribed manner of opposition to the application, the Registrar shall, after hearing the parties if so required, decide the matter.

(3) An appeal shall lie from any decision of the Registrar under this section.

(4) Where leave as aforesaid is granted, the trade mark as altered shall be advertised by the proprietor in the prescribed manner, unless it has already been advertised, in the form to which it has been altered, in an advertisement under subsection (2).

41. (1) The Minister may from time to time make such regulations, prescribe such forms and generally do such things as may be expedient, for empowering the Registrar to amend the register, whether by making or expunging or varying entries therein, so far as may be requisite for the purpose of adapting the designation therein of the goods or classes of goods in respect of which trade marks are registered to any amended or substituted classification that may be prescribed.

Adaptation of entries in register to amended or substituted classification of goods

(2) The Registrar shall not, in exercise of any power conferred on him for the purpose aforesaid, make any amendment of the register that would have the effect of adding any goods or classes of goods to those in respect of which a trade mark is registered (whether in one or more classes) immediately before the amendment is to be made or of ante-dating the registration of a trade mark in respect of any goods:

Provided that this subsection shall not have effect in relation to goods as to which the Registrar is satisfied that compliance with this subsection in relation thereto would involve undue complexity and that the addition or ante-dating, as the case may be, would not affect any substantial quantity of goods and would not substantially prejudice the rights of any person.

(3) A proposal for the amendment of the register for the purpose aforesaid shall be notified to the registered proprietor of that trade mark affected, shall be subject to appeal by the registered proprietor to the High Court shall be advertised by the proprietor with any modifications, and may be opposed before the Registrar by any person aggrieved on the ground that the proposed amendment contravenes the provisions of subsection (2), and an appeal shall lie from any decision of the Registrar on any such opposition.

(As amended by Act No. 17 of 1980)

PART IX

CERTIFICATION TRADE MARKS

42. (1) A mark adapted in relation to any goods to distinguish in the course of trade goods certified by any person in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic

Certification trade marks

from goods not so certified shall be registrable as a certification trade mark in Part C of the register in respect of those goods in the name, as proprietor thereof, of that person:

Provided that a mark shall not be so registrable in the name of a person who carries on a trade in goods of the kind certified.

(2) In determining whether a mark is adapted to distinguish as aforesaid, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, may have regard to the extent to which-

(a) the mark is inherently adapted to distinguish as aforesaid in relation to the goods in question; and

(b) by reason of the use of the mark or of any other circumstances, the mark is in fact adapted to distinguish as aforesaid in relation to the goods in question.

(3) Subject to the provisions of subsections (4) to (6) and of sections *twelve* and *thirteen*, the registration of a person as proprietor of a certification trade mark in respect of any goods shall, if valid, give to that person the exclusive right to the use of the trade mark in relation to those goods, and, without prejudice to the generality of the foregoing words, that right shall be deemed to be infringed by any person who, not being the proprietor of the trade mark or a person authorised by him under the regulations in that behalf using it in accordance therewith, uses a mark identical with it or so nearly resembling it as to be likely to deceive or cause confusion in the course of trade in relation to any goods in respect of which it is registered and in such manner as to render the use of the mark likely to be taken either-

(a) as being use as a trade mark; or

(b) in a case in which the use is upon the goods or in physical relation thereto or in an advertising circular or other advertisement issued to the public, as importing a reference to some person having the right either as proprietor or by his authorisation under the relevant regulations to use the trade mark or to goods certified by the proprietor.

(4) The right to the use of a certification trade mark given by registration as aforesaid shall be subject to any conditions or limitations

entered on the register and shall not be deemed to be infringed by the use of any such mark as aforesaid in any mode, in relation to goods to be sold or otherwise traded in in any place, in relation to goods to be exported to any market or in any other circumstances to which, having regard to any such limitations, the registration does not extend.

(5) The right to the use of a certification trade mark given by registration as aforesaid shall not be deemed to be infringed by the use of any such mark as aforesaid by any person-

(a) in relation to goods certified by the proprietor of the trade mark if, as to those goods or a bulk of which they form part, the proprietor or another in accordance with his authorisation under the relevant regulations has applied the trade mark and has not subsequently removed or obliterated it or the proprietor has at any time expressly or impliedly consented to the use of the trade mark; or

(b) in relation to goods adapted to form part of or to be accessory to other goods in relation to which the trade mark has been used without infringement of the right given as aforesaid or might for the time being be so used, if the use of the mark is reasonably necessary in order to indicate that the goods are so adapted and neither the purpose nor the effect of the use of the mark is to indicate otherwise than in accordance with the fact that the goods are certified by the proprietor:

Provided that paragraph (a) shall not have effect in the case of use consisting of the application of any such mark as aforesaid to any goods, notwithstanding that they are such goods as are mentioned in that paragraph, if such application is contrary to the relevant regulations.

(6) Where a certification trade mark is one of two or more registered trade marks that are identical or nearly resemble each other, the use of any of those trade marks in exercise of the right to the use of that trade mark given by registration shall not be deemed to be an infringement of the right so given to the use of any other of those trade marks.

(7) There shall be deposited at the Trade Marks Office in respect of every trade mark registered under this section regulations approved by the Registrar for governing the use thereof, which shall include provisions as to the cases in which the proprietor is to certify goods and to authorise the use of the trade mark and may contain any other

provisions that the Registrar may require or permit to be inserted therein (including provisions conferring a right of appeal to the Registrar against any refusal of the proprietor to certify goods or to authorise the use of the trade mark in accordance with the regulations). Regulations so deposited shall be open to inspection in like manner as the register.

(8) A certification trade mark shall not be assignable or transmissible otherwise than with the consent of the Registrar.

(9) The provisions of the Schedule shall have effect with respect to the registration of a mark under this section and to marks so registered.

(10) In this section, "person" includes the Minister responsible for the administration of any Ministry or Government department which has been authorised or established to certify goods in respect of origin, material, mode of manufacture, quality, accuracy or other characteristic.

(11) Marks which, immediately before the commencement of this Act, were registered under the Registration of Trade Marks Act, Chapter 207 of the 1957 Edition of the Laws, as certification trade marks shall be deemed to be registered as certification trade marks in Part C of the register.

*(As amended by G.N. No. 186 of 1964
and Act No. 17 of 1980)*

PART X

FUNCTIONS OF REGISTRAR IN RELATION TO CERTAIN EVIDENCE, DOCUMENTS AND POWERS

43. (1) The power to give to a person who proposes to apply for the registration of a trade mark in Part A or Part B of the register advice as to whether the trade mark appears to the Registrar *prima facie* to be inherently adapted to distinguish or capable of distinguishing, as the case may be, shall be a function of the Registrar under this Act.

Preliminary
advice by
Registrar as to
distinctiveness

(2) Any such person who is desirous of obtaining such advice must make application to the Registrar therefor in the prescribed manner.

(3) If on application for the registration of a trade mark as to which the Registrar has given advice as aforesaid in the affirmative, made within three months after the advice is given, the Registrar, after further investigation or consideration, gives notice to the applicant of objection on the ground that the trade mark is not adapted to distinguish or capable of distinguishing, as the case may be, the applicant shall be entitled, on giving notice of withdrawal of the application within the prescribed period, to have repaid to him any fee paid on the lodging of the application.

44. Where any discretionary or other power is given to the Registrar by this Act or the regulations, he shall not exercise that power adversely to the applicant for registration or the registered proprietor of the trade mark in question without (if duly required so to do within the prescribed time) giving to the applicant or registered proprietor an opportunity of being heard.

Hearing before exercise of Registrar's discretion

45. (1) A certificate purporting to be signed by the Registrar and certifying that any entry which he is authorised by or under this Act to make has or has not been made, or that any other thing which he is so authorised to do has or has not been done, shall be *prima facie* evidence of the matters so certified.

Evidence of certain entries and documents

(2) A copy of any entry in any register or of any document kept in the Trade Marks Office or of any trade mark or an extract from any such register or document, certified by the Registrar and sealed with the seal of the Patent Office, shall be admitted in evidence without further proof and without production of the original.

46. The Registrar shall, on the request of any person and on payment of the prescribed fee, furnish copies of any documents which are open to public inspection and which are lodged at the Trade Marks Office or particulars from the register or furnish a certificate in respect thereof.

Requests for information as to trade mark

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

Power of Registrar to award costs

allowed by the High Court.

(As amended by Act No. 17 of 1980)

48. (1) Subject to the provisions of section *seventy-nine*, evidence in any proceedings before the Registrar under this Act shall be given by affidavit, so, however, that the Registrar may, if he thinks fit in any particular case, take oral evidence on oath in lieu of or in addition to such evidence as aforesaid and may allow any witness to be cross-examined on his affidavit or oral evidence.

Proceedings
before Registrar

(2) The powers, rights and privileges of the Registrar in proceedings before him under this Act shall be the same as those conferred upon commissioners by the Inquiries Act and the provisions of that Act shall, *mutatis mutandis*, apply in relation to the hearing and determination of any matter before the Registrar under this Act and to any person summoned to give evidence or giving evidence before him.

Cap. 41

(As amended by G.N. No. 186 of 1964)

49. The Registrar may in any proceeding held before him decide the hours, times and places at which he will sit and he may adjourn any proceedings for such time and to such place as he may think fit.

Power of
Registrar to fix
time and place
of sitting, etc.

50. No advertisement or notice, other than a notice issued under the authority of the President or the Minister, shall be published by any person under the provisions of this Act unless it is in the prescribed form and the Registrar has approved the contents of such advertisement or notice, and no advertisement or notice which has not been so approved shall have any force or effect for the purposes of this Act.

Advertisements
to be approved
by Registrar

(As amended by G.N. No. 186 of 1964)

PART XI

APPEALS AND LEGAL PROCEEDINGS

51. (1) 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

(As amended by Act No. 17 of 1980)

52. *Repealed by Act No. 17 of 1980.*

53. The Minister may, by statutory instrument, make rules for regulating generally the practice and procedure of the Tribunal and with respect to appeals or references to such Tribunal as to the time within which any requirement of the rules is to be complied with, as to the costs and expenses of and incidental to any proceedings in such Tribunal, as to the fees to be charged in respect of proceedings therein, as to the fees to be paid to assessors, and in particular may make rules providing for the summary determination of any appeal which appears to the Tribunal to be frivolous or vexatious or to be brought for the purpose of delay.

Rules

(As amended by Act No. 17 of 1980)

54. *Repealed by Act No. 17 of 1980.*

55. Appeals under this Part, whether from decisions of the Registrar, or orders or decisions of the High Court, shall be brought within three months after the date of the decision or order in question or within such further time as the High Court or Supreme Court may allow upon application by the appellant concerned.

Time for
appeals

(As amended by Act No. 17 of 1980)

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.

References to
High Court by
Registrar

*(As amended by G.N. No. 186 of 1964
and Act No. 17 of 1980)*

57. In all legal proceedings relating to a registered trade mark (including applications under section *thirty-seven*), the fact that a person is registered as proprietor of the trade mark shall be *prima facie* evidence of the validity of the original registration of the trade mark and of all subsequent assignments and transmissions thereof.

Registration to
be *prima facie*
evidence of
validity

58. In any legal proceeding in which the validity of the registration of a registered trade mark comes into question and is decided in favour of the proprietor of the trade mark, the registrar or High Court may certify to that effect, and if it so certifies, then, in any subsequent legal proceeding in which the validity of the registration comes into question, the proprietor of the trade mark, on obtaining a final order or judgment in his favour, shall have his full costs, charges and expenses as between solicitor and client, unless in the subsequent proceeding the registrar or High Court certifies that he ought not to have them.

*(As amended by G.N. No. 186 of 1964
and Act No. 17 of 1980)*

Certification of
validity

59. Any action or legal proceeding relating to the infringement or passing off of a trade mark shall be brought in the High Court.

(As amended by G.N. No. 186 of 1964)

Infringement or
passing off
action to be
heard in High
Court

60. In any action or proceeding relating to a trade mark or trade name, the High Court or the Registrar, as the case may be, shall admit evidence of the usages of the trade concerned and of any relevant trade mark or trade name or get-up legitimately used by other persons.

(As amended by Act No. 17 of 1980)

Trade usage,
etc., to be
considered

61. (1) In any legal proceeding in which the relief sought includes alteration or rectification of the register, the Registrar shall have the right to appear and be heard, and shall appear if so directed by the High Court.

Registrar's
appearance in
proceedings
involving
rectification

(2) Unless otherwise directed by the High Court, the Registrar, in lieu of appearing and being heard, may submit to the High Court a statement in writing signed by him, giving particulars of the proceedings before him in relation to the matter in issue or of the grounds of any decision given by him affecting it or of the practice of the Trade Marks Office in like cases or of such other matters relevant to the issues, and within his knowledge as Registrar, as he thinks fit, and the statement shall be deemed to form part of the evidence in the proceeding.

(As amended by Act No. 17 of 1980)

62. *Repealed by Act No. 17 of 1980.*

63. *Repealed by Act No. 17 of 1980.*

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.

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

(As amended by Act No. 17 of 1980)

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.

Security for costs and taxation of costs

(2) If the party or appellant 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.

(As amended by G.N. No. 186 of 1964 and Act No. 17 of 1980)

66. In all proceedings before the High Court under this Act, the costs of the Registrar shall be in the discretion of the High Court, but the Registrar shall not be ordered to pay the costs of any other of the parties.

Costs of Registrar

(As amended by Act No. 17 of 1980)

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

(As amended by Act No. 17 of 1980)

PART XII

OFFENCES AND PENALTIES

68. Any person who makes or causes to be made a false entry in the register, or a writing falsely purporting to be a copy of an entry in the register, or who produces or tenders or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false, shall be guilty of an offence.

Falsification of
entries in
register

69. (1) Any person who makes a representation-

Penalty for
falsely
representing a
trade mark as
registered

(a) with respect to a mark not being a registered trade mark to the effect that it is a registered trade mark; or

(b) with respect to a part of a registered trade mark not being a part separately registered as a trade mark to the effect that it is so registered; or

(c) to the effect that a registered trade mark is registered in respect of any goods in respect of which it is not registered; or

(d) to the effect that the registration of a trade mark gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations entered on the register, the registration does not give that right;

shall be guilty of an offence and liable to a fine of one thousand five hundred penalty units or, in default of payment, to imprisonment for a period not exceeding six months, or to both.

(2) For the purposes of this section, the use in Zambia in relation to a trade mark of the word "registered" or of any other word referring, whether expressly or impliedly, to registration shall be deemed to import a reference to registration in the register, except-

(a) where that word is used in physical association with other words delineated in characters at least as large as those in which that word is delineated and indicating that the reference is to registration as a trade mark under the law of a country outside Zambia, being a country under the law of which the registration referred to is in fact in force;

(b) where that word (being a word other than the word "registered") is of itself such as to indicate that the reference is to such registration as last aforesaid; or

(c) where that word is used in relation to a mark registered as a trade mark under the law of a country outside Zambia and in relation to goods to be exported to that country.

(As amended by G.N. No. 186 of 1964 and Act No. 13 of 1994)

70. (1) Any person who-

Deceiving or
influencing the
Registrar or an
officer

(a) for the purpose of deceiving the Registrar or any other officer of the Trade Marks Office in the execution of the provisions of this Act; or

(b) for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder;

makes or submits a false statement or representation, whether orally or in writing, knowing the same to be false, shall be guilty of an offence.

(2) Any person who, having innocently made a false statement or representation, whether orally or in writing, for the purpose of procuring or influencing the doing or omission of anything in relation to this Act or any matter thereunder and who on becoming aware that such statement or representation was false, fails to advise the Registrar forthwith of such falsity shall be guilty of an offence.

(No. 37 of 1960)

71. Any person who, after having been sworn, wilfully gives false evidence before the Registrar concerning the subject-matter of the proceeding in question, knowing such evidence to be false or not knowing or believing it to be true shall be guilty of an offence.

Witness giving
false evidence

(As amended by Act No. 17 of 1980)

72. Save where otherwise provided in this Act, any person who is guilty of an offence under this Act shall be liable to a fine not exceeding fifteen thousand penalty units or to imprisonment for a period not exceeding three years, or to both. Penalties

(As amended by Act No. 13 of 1994)

PART XIII

MISCELLANEOUS

73. (1) Any person who qualifies under Article 2 or 3 of the Convention and who has applied for protection for any trade mark in a convention country or his legal representative or assignee (if such assignee is also so qualified) shall be entitled to registration of his trade mark in priority to other applicants; and the registration shall have the same date as the date of the application in the convention country: Convention arrangements

Provided that-

(i) the application for registration is made within six months from the date of the application for protection in the convention country;

(ii) nothing in this section shall entitle the proprietor of a trade mark to recover damages for infringements happening prior to the actual date on which his trade mark is registered in Zambia.

(2) Where applications have been made for the registration of a trade mark in two or more convention countries, the period of six months referred to in subsection (1) shall be reckoned from the date on which the earlier or earliest of those applications was made.

(3) The application for the registration of a trade mark under this section must be made in the same manner as is required in the case of any ordinary application under this Act.

(As amended by G.N. No. 186 of 1964)

74. The use of a registered trade mark in relation to goods between which and the person using it any form of connection in the course of trade subsists shall not be deemed to be likely to cause deception or confusion on the ground only that the trade mark has been or is used in relation to goods between which and that person or a predecessor in title of his a different form of connection in the course of trade subsisted or subsists.

Change of form of trade connection not to be deemed to cause deception

75. Where the relations between two or more persons interested in a trade mark are such that no one of them is entitled as between himself and the other or others of them to use it except-

Jointly owned trade marks

(a) on behalf of both or all of them; or

(b) in relation to an article with which both or all of them are connected in the course of trade;

those persons may be registered as joint proprietors of the trade mark, and this Act shall have effect in relation to any rights to the use of the trade mark vested in those persons as if those rights had been vested in a single person. Subject as aforesaid, nothing in this Act shall authorise the registration of two or more persons who use a trade mark independently, or propose so to use it, as joint proprietors thereof.

76. (1) Any application, notice or document authorised or required under this Act to be lodged, made or given at the Trade Marks Office or to the Registrar or to any other person may be delivered by hand or sent by registered post.

Lodging and authentication of documents

(2) No authentication shall be required in respect of any document lodged in the Trade Marks Office under the provisions of this Act.

(As amended by Act No. 17 of 1980)

77. All moneys necessary for the purpose of this Act shall be paid out of moneys appropriated for the purpose by Parliament.

Expenses of administration

(As amended by G.N. No. 186 of 1964 and S.I. No. 175 of 1965)

78. (1) Where under the provisions of this Act-

Provisions as to fees

(a) a fee is payable in respect of the performance of any act by the Registrar, the Registrar shall not perform that act until the fee has been paid;

(b) a fee is payable in respect of the doing of any act by any person other than the Registrar, the act shall be deemed not to have been done until the fee has been paid; or

(c) a fee is payable in respect of the lodging of a document, the document shall be deemed not to have been lodged until the fee has been paid.

(2) All fees shall be paid at the Trade Marks Office in such manner as the Registrar, with the approval of the Minister, may accept.

79. Any person who is required under the provisions of this Act to take any oath or swear to the truth of any affidavit may, in lieu thereof, make an affirmation or declaration in accordance with the law relating to affirmations or declarations in Zambia.

Oaths and affirmations

(As amended by G.N. No. 186 of 1964)

80. (1) The Minister may, when he deems fit, direct the publication by the Registrar of a journal, to be referred to as the Trade Marks Journal, containing particulars of applications for the registration of trade marks and other proceedings or matters arising under the provisions of this Act, together with such reports of cases and other relevant matters as the Minister may deem fit.

Trade Marks Journal

(2) The Registrar shall make provision for selling copies of the Trade Marks Journal at such price and in such manner as the Minister may direct.

81. (1) The Minister may, by statutory instrument, make regulations prescribing anything which under this Act is to be prescribed and generally for the better carrying out of the objects and purposes of this Act or to give force or effect to its provisions or for its better administration.

Regulations

(2) Without derogation from the generality of the provisions of

subsection (1), regulations made by the Minister may provide-

- (a) for regulating the practice under this Act, including the service of documents;
- (b) for classifying goods for the purposes of registration of trade marks;
- (c) for prohibiting the registration of any mark on the grounds of morality, public policy or for other good and sufficient reason;
- (d) for making or requiring duplicate representations of trade marks and other documents;
- (e) for securing and regulating the publishing and selling or distributing, in such manner as he thinks fit, of copies of trade marks and other documents;
- (f) for the fees which may be charged in relation to the conduct of trade mark business by trade mark agents;
- (g) for the professional conduct of trade mark agents;
- (h) generally for regulating the business of the Trade Marks Office in relation to trade marks and all things by this Act placed under the direction or control of the Registrar.

(3) The Minister may also prescribe a tariff, not inconsistent with this Act, of the fees which shall be payable in respect of any application, registration and other matters under this Act and the fees shall be payable as so prescribed.

*(As amended by No. 37 of 1960
and No. 2 of 1962)*

PART XIV

APPLICATION AND TRANSITIONAL PROVISIONS

82. Save as otherwise provided in this Part, the provisions of this Act shall apply in respect of all trade marks, including trade marks registered before the commencement of this Act: Application of Act

Provided that-

- (i) a trade mark registered before the commencement of this Act shall not be liable to be taken off the register except upon some ground upon which it would have been so liable in terms of the Registration of Trade Marks Act, Chapter 207 of the 1957 Edition of the Laws (hereinafter in this section referred to as "such legislation") under which it was registered and shall, unless it is so removed in terms of this Act, lapse on the date of the expiration of the last registration thereof in terms of such legislation unless renewed in terms of section *twenty-five*;
- (ii) fees for the renewal of any trade mark registered before the commencement of this Act shall be paid in accordance with the scale of fees prescribed for the renewal of trade marks registered under the provisions of this Act.

*(As amended by G.N. No. 186 of 1964
and S.I. No. 175 of 1965)*

83. *Repealed by Act No. 17 of 1980.*

84. *Repealed by Act No. 17 of 1980.*

85. *Repealed by Act No. 17 of 1980.*

PART XV

TRADE MARK AGENTS

(No. 2 of 1962)

86. Subject to the provisions of section *eighty-eight*, the Registrar shall keep a register of trade mark agents in which he shall- Registration of trade mark agents

- (a) register the name of every person who is accepted for registration;
- (b) show against the name of every person registered under

paragraph (a) such particulars as he may from time to time deem necessary; and

(c) enter all changes relating to registrations.

(As amended by S.I. No. 175 of 1965)

87. (1) The Registrar may remove from the register of trade mark agents the name of any trade mark agent upon proof to his satisfaction that such trade mark agent-

Removal of
names from
register of trade
mark agents

(a) has died;

(b) has become of unsound mind;

(c) has been adjudged or otherwise declared bankrupt under any written law, or has made an assignment to or composition with his creditors;

(d) has ceased to reside in Zambia, or has ceased to maintain a place of business therein;

(e) has applied for his name to be so removed;

(f) has, after being convicted, in Zambia or elsewhere, of the crime of theft, fraud, forgery or uttering a forged document or perjury, been sentenced to serve a term of imprisonment without the option of a fine, whether such sentence is suspended or not, and has not received a free pardon;

(g) having been entitled to practise as a trade mark agent has ceased to be so entitled, or has ceased to practise as such.

An appeal shall lie from any decision of the Registrar made under the provisions of this subsection.

(2) Subject to the provisions of this section and such procedure as may be prescribed, the High Court may order the Registrar to remove the name of any trade mark agent from the register of trade mark agents or may suspend any trade mark agent from practising as such for such time as it thinks fit if it is satisfied, after due inquiry, that such person has been guilty of conduct discreditable to a trade mark agent or has been

guilty of a breach of any regulations prescribed for the conduct of trade mark agents.

(3) Where the name of any trade mark agent has been removed from the register of trade mark agents under the provisions of subsection (1) or (2), his name shall not be restored to that register except by direction of the High Court which may further direct that such restoration shall be made either without fee or on payment of such fee as it may fix, and the Registrar shall restore the name accordingly.

*(As amended by G.N. No. 186 of 1964
and Act No. 17 of 1980)*

88. Any person entitled to practise as a legal practitioner in Zambia and any patent agent may practise and describe himself as a trade mark agent and perform the functions set out in section *ninety* without being registered as a trade mark agent.

Privileges of
legal
practitioners
and patent
agents

(As amended by G.N. No. 186 of 1964)

89. (1) No person who is not-

Entitlement to
practise as a
trade mark
agent

(a) ordinarily resident in Zambia and registered as a trade mark agent; or

(b) such a person as is described in section *eighty-eight*;
shall practise as a trade mark agent.

(2) A person shall be deemed to practise as a trade mark agent if he performs any of the functions of a trade mark agent set out in section *ninety* or if he carries on within Zambia the business of applying for or obtaining for others trade marks in Zambia or elsewhere.

(3) No person who is not a trade mark agent shall describe himself as, or hold himself out to be, a trade mark agent, nor shall he permit himself to be so described or held out.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

*(As amended by G.N. No. 186 of 1964
and S.I. No. 175 of 1965)*

90. (1) Subject to the provisions of this Act, a trade mark agent may act as agent on behalf of any person in connection with any matter or proceeding before the Registrar under this Act and may draw and sign all documents and make all communications between an applicant and the Trade Marks Office and may represent an applicant at all attendances before the Registrar.

Trade mark
agents and their
functions

(2) A trade mark agent shall not be guilty of an offence under the provisions of any written law in force in Zambia prohibiting the preparation for reward of certain documents by persons not legally qualified, by reason only of the preparation by him of any document relating to trade marks for use in the Trade Marks Office or required in any proceedings under this Act before the Registrar or the High Court.

*(As amended by G.N. No. 186 of 1964
and Act No. 17 of 1980)*

91. (1) No trade mark agent shall have an interest either as a partner or manager or otherwise in more than one firm of trade mark agents in Zambia.

Prohibition of
certain acts by
trade mark
agents

(2) No trade mark agent shall practise under a name or title which includes the name of any person who is not or was not-

(a) in his lifetime ordinarily resident in Zambia; or

(b) registered or entitled to practise as a trade mark agent under the provisions of this Act.

(3) No person shall practise as a trade mark agent if he is a party to-

(a) a contract of partnership; or

(b) an arrangement providing for the sharing or paying over of any professional fees;

relating to the business of a trade mark agent with any person who is prohibited from practising as a trade mark agent.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence.

(As amended by G.N. No. 186 of 1964)

SCHEDULE **(Section 42)**

CERTIFICATION TRADE MARKS

1. (1) An application for the registration of a mark under section 42 must be made to the Registrar in writing in the prescribed manner by the person proposed to be registered as the proprietor thereof.

(2) An applicant for the registration of a mark under the said section 42 shall transmit to the Registrar draft regulations for governing the use thereof at such time before the decision of the Registrar on the application as he may require in order to enable him to consider the draft.

(3) Subject to the provisions of this Act, the Registrar may refuse the application or may accept it and approve the regulations either without modification and unconditionally or subject to any conditions or limitations or to any amendments or modifications of the application or of the regulations, which he thinks requisite.

(4) The provisions of subsections (5) to (8) of section 22 shall have effect in relation to an application under the said section 42 as they have effect in relation to an application under subsection (1) of the said section 22.

(5) In dealing with an application under the said section 42, the Registrar, or the High Court in the event of an appeal from a decision of the Registrar, shall have regard to the like considerations, so far as relevant, as if the application were an application under section 22 and to any other considerations relevant to applications under the said section 42, including the desirability of securing that a certification trade mark shall comprise some indication that it is such a trade mark, and including also the following matters, that is to say:

- (a) whether the applicant is competent to certify the goods in respect of which the mark is to be registered;
- (b) whether the draft regulations are satisfactory; and
- (c) whether in all the circumstances the registration applied for would be to the public advantage.

2. When an application has been accepted, the applicant shall, as soon as may be after such acceptance, advertise the application as accepted in the prescribed manner, and the provisions of subsections (2) to (10) of section 23 shall have effect in relation to the registration of the mark as if the application had been an application under section 22.

3. (1) The regulations deposited in respect of a certification trade mark may, on the application of the registered proprietor, be altered by the Registrar.

(2) The Registrar may direct that an application for an alteration under this paragraph shall be advertised in any case where it appears to him that it is expedient so to do, and where an application has been so advertised, if within the prescribed time from the date of the advertisement any person gives notice to the Registrar of opposition to the application, the

Registrar shall not decide the matter without giving the parties an opportunity of being heard.

4. (1) On the application in the prescribed manner of any person aggrieved or of his own motion, the Registrar (subject to the provisions of section 44) may make such order as he thinks fit for expunging or varying any entry in the registrar relating to a certification trade mark or for varying the deposited regulations on the ground-

(a) that the proprietor is no longer competent, in the case of any of the goods in respect of which the trade mark is registered, to certify those goods;

(b) that the proprietor has failed to observe a provision of the deposited regulations to be observed on his part;

(c) that it is no longer to the public advantage that the trade mark should be registered;
or

(d) that it is requisite for the public advantage that, if the trade mark remains registered, the regulations should be varied.

(2) An appeal shall lie from any decision of the Registrar under this paragraph.

5. Notwithstanding anything in section 47, the Registrar shall not have any jurisdiction to award costs to or against any party on an appeal to him against a refusal of the proprietor of a certification trade mark to certify goods or to authorise the use of the trade mark.

6. The following provisions of this Act shall not have effect in relation to a certification trade mark, that is to say, sections 9, 11, 14, 22 and 23 (except as expressly applied by this Schedule), subsections (4) to (8) of section 27, sections 31 to 34, section 74, and any provisions the operation of which is limited by the terms thereof to registration in Part B of the register.

(As amended by Act No. 17 of 1980)

SUBSIDIARY LEGISLATION

TRADE MARKS

SECTION 3-THE TRADE MARKS OFFICE (ESTABLISHMENT) ORDER Order by the Minister

***Statutory
Instrument
326 of
1968***

- | | |
|--|---|
| 1. This Order may be cited as the Trade Marks Office (Establishment) Order. | Title |
| 2. The Trade Marks Office is hereby established at the place described in the Schedule. | Establishment
of Trade Marks
Office |

SCHEDULE

(Paragraph 2)

That part of the building known as "Kwacha House", Cairo Road, Lusaka, set apart for the Trade Marks Office.

THE TRADE MARKS REGULATIONS [ARRANGEMENT OF REGULATIONS]

Regulation

1. Title
2. Interpretation
3. Prescribed fees
4. Prescribed forms
5. Classification of goods
6. Application by registered proprietors for conversion of specification
7. Advertisement of proposal. Opposition
8. Conversion of specifications; resulting registrations
9. Size, etc., of documents
10. Signature of documents by partnerships, companies and associations
11. Service of documents
12. Address
13. Address for service
14. Agency
15. Registrable trade marks
16. Armorial Ensigns, National Flag, etc.
17. Arms of city, etc.
18. Consent of person to use of name or representation
19. Name or description of goods on a trade mark
20. Preliminary advice by Registrar as to distinctiveness
21. Form of application. Specification
22. Address for application
23. Representation of mark
24. Additional forms and representations
25. Representations to be durable
26. Separate applications

27. Representations to be satisfactory
28. Specimens of trade marks in exceptional cases
29. Series of trade marks
30. Transliteration and translation
31. Search

Regulation

32. Acceptance, absolute or conditional; objection
33. Registrar's objections. Hearing
34. Registrar's conditions, etc. Hearing
35. Decision of Registrar
36. Disclaimer
37. Application under section 32
38. Application under section 42
39. Authorisation to proceed
40. Case; draft regulations
41. Directions by Registrar
42. Advertisement of application
43. Wood block or electrotpe printing
44. Advertisement of series
45. Advertisement under sections 23 and 40
46. Opposition
47. Notice of opposition
48. Counter-statement
49. Evidence in support of opposition
50. Evidence in support of application
51. Evidence in reply by opponent
52. Further evidence
53. Exhibits
54. Hearing
55. Extension of time
56. Security for costs
57. Costs in uncontested case

- 58. Opposition to application under section 42
- 59. Non-completion within twelve months
- 60. Entry in register
- 61. Associated marks
- 62. Death of applicant before registration
- 63. Certificate of registration
- 64. Renewal of registration
- 65. Notice before removal of trade mark from register
- 66. Second notice

Regulation

- 67. Advertisement of non-payment
- 68. Removal of trade mark from register
- 69. Record of removal of mark
- 70. Notice and advertisement of renewal and restoration
- 71. Joint application for entry of assignment or transmission
- 72. Application for entry of assignment or transmission by subsequent proprietor
- 73. Particulars to be stated in application
- 74. Case accompanying application
- 75. Proof of title
- 76. Application for entry of assignment without goodwill
- 77. Entry in register
- 78. Separate registrations
- 79. Registrar's certificate or approval as to certain assignments and transmissions
- 80. Registrar's directions for advertisement of assignment without goodwill of trade mark in use
- 81. Alteration of address in register
- 82. Application to rectify, or remove a trade mark from, the register
- 83. Further procedure
- 84. Intervention by third parties
- 85. Application under section 39 (1)
- 86. Evidence

- 87. Advertisement of certain applications
- 88. Certificates of validity to be noted
- 89. Alteration of registered mark
- 90. Advertisement before decision
- 91. Advertisement after decision
- 92. Supply of printing block
- 93. Orders for rectification of certification trade mark entries and regulations
- 94. Alteration of certification trade mark regulations
- 95. Service of documents
- 96. Application for entry of registered user
- 97. Entry and notification
- 98. Registered proprietor's application to vary entry

Regulation

- 99. Application by registered proprietor or user to cancel entry
- 100. Application under section 33 (8) (c) to cancel entry
- 101. Notification and hearing
- 102. Registered user's application under section 39 (2)
- 103. Extension of time
- 104. Excluded days
- 105. Hearing
- 106. Application for hearing
- 107. Notice of hearing
- 108. Notification of decision
- 109. Dispensing with evidence
- 110. Amendment of documents
- 111. Certificates by Registrar
- 112. Manner in which and person before whom affidavit or solemn declaration is to be taken
- 113. Searches
- 114. Days and hours of business
- 115. Procedure on appeal from decision of Registrar
- 116. Copy of application to Tribunal to be served on Registrar

117. Order of High Court or Tribunal
118. Publication of order of High Court or Tribunal

FIRST SCHEDULE-Tariff of fees

SECOND SCHEDULE-Prescribed forms

THIRD SCHEDULE-Classification of goods

FOURTH SCHEDULE-Classification of goods-Names of the classes

SECTIONS 41 AND 81-THE TRADE MARKS REGULATIONS	<i>Federal Government Notices</i>
Regulations by the Minister	<i>260 of 1957</i>
	<i>57 of 1960</i>
	<i>11 of 1961</i>
	<i>267 of 1962</i>
	<i>Act 57 of 1964</i>
	<i>Government Notice</i>
	<i>497 of 1964</i>
	<i>Statutory Instruments</i>
	<i>223 of 1965</i>
	<i>307 of 1965</i>
	<i>39 of 1981</i>
	<i>8 of 1984</i>
	<i>148 of 1990</i>
	<i>Act No. 13 of 1994</i>

1. These Regulations may be cited as the Trade Marks Regulations. Title
2. In these Regulations, unless the context otherwise requires- Interpretation

"agent" means an agent duly authorised to the satisfaction of the Registrar;

"Office" means the Trade Marks Office;

"section" means a section of the Act;

"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. The fees which shall be payable in respect of any application, registration and other matters under the Act and these Regulations shall be the fees prescribed in the First Schedule. Prescribed fees

(F.G.N. No. 267 of 1962)

4. The forms herein referred to are those contained in the Second Schedule and such forms shall be used in all cases to which they are applicable, and may be modified as directed by the Registrar to meet other cases. Prescribed forms

5. (1) For the purpose of- Classification of goods

(a) trade marks registrations dated in the former Protectorate of Northern Rhodesia before the 27th July, 1938;

(b) registrations of registered users in respect of the trade marks mentioned in paragraph (a);

goods are classified in the manner appearing in the Third Schedule unless any specification has been converted to the Fourth Schedule.

(2) For the purpose of-

(a) trade marks registrations dated in the former Protectorate of Northern Rhodesia on or after the 27th July, 1938;

(b) registrations of registered users in respect of the trade marks mentioned in paragraph (a);

(c) any trade marks registrations dated before the commencement of the Act whereof the specifications have been converted to the Fourth Schedule; and

(d) trade marks registered on or after the commencement of the Act or registrations of registered users thereunder;

goods are classified in the manner appearing in the Fourth Schedule.

6. Where the specification of a registered trade mark is founded on the Third Schedule, the registered proprietor may apply to the Registrar on Form T.M. No. 45 for the conversion of that specification so that it may be founded on the Fourth Schedule, whether with or without the striking-out of goods therefrom, but so that the registration retains its original date, and shall include in the application a request for the like conversion of the specification of the goods of any registered users under that registration. Thereupon the Registrar in accordance with subsection (3) of section *forty-one* shall 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. Two or more registrations of a trade mark in respect of goods falling within the same class of the Fourth Schedule, having the same date of registration, may be amalgamated upon conversion in accordance with this regulation.

Application by
registered
proprietors for
conversion of
specification

7. The advertisement of a proposal for amendment under subsection (3) of section *forty-one* shall be made in the *Trade Marks Journal* and a notice of any opposition shall be given on Form T.M. No. 46 within two months from the date of the advertisement, and shall be accompanied by a duplicate of the notice and by a statement in duplicate showing how the proposed conversion would be contrary to subsection (2) of section *forty-one*. The Registrar shall forthwith send the duplicate copies to the registered proprietor who may, within two months from the receipt of such duplicates, send to the Registrar a counter-statement on Form T.M. No. 7 setting out fully the grounds on which the opposition is contested and if he does so he shall deliver to the opponent a copy thereof. The Registrar may thereupon require or admit evidence directed to the questions in issue and, if so desired by either party he shall, before deciding the matter, give the parties an opportunity of being heard thereon.

Advertisement
of proposal.
Opposition

(As amended by F.G.N. No. 57 of 1960)

8. When a proposal for the conversion of a specification in accordance with regulation 6 has been advertised and has not been opposed and the time for notice of opposition has expired, or having been opposed the opposition has been determined and a conversion allowed, the Registrar shall make all the entries in the register necessary to give effect to the conversion in accordance with the proposal as advertised, or the proposal as amended after opposition or appeal thereon and published subsequently in the *Trade Marks Journal*, and shall enter in the register the date when such entries were made. The expression "the expiration of the last registration" shall have regard to the same date in the case of all the resulting entries for the purpose of determining the next renewal thereof in accordance with section *twenty-five* as it had with regard to the registration before conversion.

Conversion of specifications; resulting registrations

(As amended by F.G.N. No. 57 of 1960)

9. Subject to any other directions that may be given by the Registrar, all applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act or these Regulations to be made, left or sent, at or to the Office, shall, unless the Registrar otherwise directs, be written, typewritten, lithographed or printed in the English language upon strong paper, in dark, indelible ink, on one side only, of a size approximately 13 inches by 8 inches, and shall have on the left-hand part thereof a margin of not less than 1 1/2 inches.

Size, etc., of documents

10. A document purporting to be signed for or on behalf of a partnership shall contain the names of all the partners in full and shall be signed by all the partners or by any qualified partner stating that he signs on behalf of the partnership, or by any other person who satisfies the Registrar that he is authorised to sign the document. A document purporting to be signed for or on behalf of a body corporate shall be signed by a director or by the secretary or other principal officer of the body corporate, or by any other person who satisfies the Registrar that he is authorised to sign the document. A document purporting to be signed for or on behalf of an association of persons may be signed by any person who appears to the Registrar to be duly qualified.

Signature of documents by partnerships, companies and associations

11. All applications, notices, statements, papers having representations affixed, or other documents authorised or required by the Act or these Regulations to be made, left or sent, at or to the Office or with or to any other 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,

Service of documents

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.

12. (1) Where any person is by the Act or these Regulations bound to furnish the Registrar with an address, 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. Address

(2) The Registrar may require the address to include the name of the street and the number of the street or name of the premises, if any.

13. (1) The Registrar may require an applicant, opponent or agent, or a registered proprietor or registered user of a trade mark, who does not reside or carry on business within Zambia, to give an address for service within Zambia and such address may be treated as the actual address of that person for all purposes connected with the matter in question. Address for service

(2) Any registered proprietor or registered user of a trade mark, or any person about to be registered as such, may, if he so desires, give an address for service for entry in the register, and such address may be entered by the Registrar.

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

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

(5) The Registrar, at any time that a doubt arises as to the continued availability of an address for service entered in the register, may request the person for whom it is entered, by letter addressed to his trade or business address in the register, to confirm the address for service, and if within three months of making such request the Registrar receives no confirmation of that address, he may strike it off the register.

14. (1) Except as otherwise required by these Regulations, any application, request or notice which is required or permitted by the Act or these Regulations to be made or given to the Registrar, and all other communications between an applicant or a person making such a request or giving such a notice and the Registrar, and between the registered proprietor or a registered user of a trade mark and the Registrar or any other person, may be signed, made or given by or through an agent.

Agency

(2) Any such applicant, person making request or giving notice, proprietor or registered user may appoint an agent to act for him in any proceeding or matter before or affecting the Registrar under the Act and these Regulations by signing and sending to the Registrar an authority to that effect in the Form T.M. No. 1, or in such other written form as the Registrar may deem sufficient. In case of such appointment, service upon the agent of any document relating to the proceeding or matter shall be deemed to be service upon the person so appointing him, all communications directed to be made to such person in respect of the proceeding or matter may be addressed to such agent, and all attendances upon the Registrar relating thereto may be made by or through such agent. In any particular case the Registrar may require the personal signature or presence of an applicant, opponent, proprietor, registered user or other person.

(3) The Registrar shall not be bound to recognise as such agent any person-

(a) who has been proved to him to have been guilty of conduct discreditable to a trade mark agent; or

(b) who has been convicted of a criminal offence and sentenced to imprisonment without the option of a fine; or

(c) who has been suspended from practice as a legal practitioner or whose name has been struck off the roll of legal practitioners in Zambia; or

(d) who has been adjudged guilty of conduct discreditable to a patent agent; or

(e) who has been suspended from practice as a patent agent, or whose name has been erased from the register of patent agents kept under the provisions of the Patents Act, and not subsequently restored.

Cap. 400

15. (1) The Registrar may refuse to accept any application for the registration of a mark upon which any of the following appear:

Registrable
trade marks

(a) the words "Patent", "Patented", "Registered", "Registered Design", "Copyright", "Entered at Stationers' Hall", "To counterfeit this is a forgery", or words to like effect;

(b) representations of the President, or any colourable imitations thereof;

(c) the words "Red Cross" or "Geneva Cross", and representations of the Geneva and other crosses in red, or of the Swiss Federal cross in white on a red ground or silver on a red ground, or such representations in a similar colour or colours.

(2) Where there appears in a trade mark the registration of which is applied for a representation of a cross in any colour, not being one of those mentioned in paragraph (c) of subregulation (1), the Registrar may require the applicant as a condition of acceptance to undertake not to use the cross device in red, or in white on a red ground or silver on a red ground, or in any similar colour or colours.

(As amended by S.I. No. 307 of 1965)

16. The following features may not appear on trade marks the registration of which is applied for:

Armorial
Ensigns,
National Flag,
etc.

(a) representations of the Armorial Ensigns of Zambia or devices so nearly resembling it as to be likely to be mistaken for it;

(b) representations of the National Flag of Zambia;

(c) any words, such as "the President", "Republic" or "Zambia", or any letters or devices if used in such a manner as to be likely to lead persons to think that the applicant either has or recently has had the patronage or authorisation of the President or patronage or authorisation from the Government of the Republic of Zambia, whether or not such may be the case.

(As amended by S.I. No. 307 of 1965)

- 17.** Where a representation of the armorial bearings, insignia, orders of chivalry, decorations or flags of any state, city, borough, town, place, society, body corporate, institution or person appears on a mark, the Registrar, before proceeding to register the mark, shall, if he so requires, be furnished with a consent to the registration and use of such emblems from such official or other person as appears to the Registrar to be entitled to give consent, and in default of such consent he may refuse to register the mark. Arms of city, etc.
- 18.** Where the name or representation of any person appears on a trade mark, the Registrar shall, if he so requires, before proceeding to register the mark, be furnished with consent from him or, in the case of a person recently dead, from his legal representative, and in default of such consent he may refuse to register the mark. Consent of person to use of name or representation
- 19.** (1) Where the name or description of any goods appears on a trade mark, the Registrar may refuse to register such mark in respect of any goods other than the goods so named or described. Name or description of goods on a trade mark
- (2) Where the name or description of any goods appears on a trade mark, which name or description in use varies, the Registrar may permit the registration of the mark for those and other goods, and in that case the applicant shall state in his application that the name or description will be varied when the mark is used upon goods covered by the specification other than the named or described goods.
- 20.** (1) Any person who proposes to apply for the registration of a trade mark in Part A or Part B of the register in respect of any goods may apply to the Registrar on Form T.M. No. 30, or on Form T.M. No. 29 in a case where he is also making an application under regulation 113, for advice as to whether the trade mark, of which duplicate representations shall accompany the form, appears to the Registrar *prima facie* to be inherently adapted to distinguish within the meaning of section *fourteen* or *fifteen*, as the case may be, in relation to those goods, and shall apply separately in relation to goods comprised within different classes of goods in the Fourth Schedule. Preliminary advice by Registrar as to distinctiveness
- (2) A notice of withdrawal of an application for the registration of a

trade mark given under subsection (3) of section *forty-three* for the purpose of obtaining repayment of any fee paid on the filing of the application shall be given in writing within two months from the date of the notice of the Registrar's objection.

21. (1) An application to the Registrar for the registration of a trade mark shall be signed by the applicant or his agent. For a trade mark other than a certification or defensive trade mark the application shall be made on Form T.M. No. 2. For a certification or a defensive trade mark the application shall be made on Form T.M. No. 5 or Form T.M. No. 33 respectively. Each application shall be for registration in respect of goods in one class of the Fourth Schedule only.

Form of
application.
Specification

(2) Every application claiming priority under section *seventy-three* by reason of an application to register the trade mark made or deemed to have been made in a convention country, which shall be named in the application, shall state the date of that application, and the applicant shall furnish a certificate by the registrar or other registering authority of that country, or shall otherwise verify the application made or deemed to have been made therein to the satisfaction of the Registrar.

(3) In the case of an application for registration in respect of all the goods included in a class, or of a large variety of goods, the Registrar may refuse to accept the application unless he is satisfied that the specification is justified by the use of the mark which the applicant has made, or intends to make if and when it is registered.

(4) For the purposes of the provisions of subsection (2) of section *twenty-two*, an application shall be made on Form T.M. No. 2, subject to such modifications as the Registrar may approve.

(As amended by F.G.N. No. 11 of 1961)

22. An application for the registration of a trade mark shall be addressed and sent to the Registrar at the Office.

Address for
application

23. (1) Every application for the registration of a trade mark shall contain a representation of the mark in the space provided on the application form for that purpose.

Representation
of mark

(2) 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.

(3) In the case of word marks represented in plain letters, the word shall be printed or stencilled in letters of not less than 3/8 inch in size.

24. There shall be sent with every application for registration of a trade mark (other than a certification trade mark) six additional representations of the mark on Form T.M. No. 3. The representation of the mark on the application and its duplicate (if any) and the additional representations shall correspond exactly. 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 or his agent.	Additional forms and representations
---	--------------------------------------

25. All representations of marks must be of a durable nature, but the applicant may in case of need supply, in place or representations on Form T.M. No. 3, such representations on sheets of strong paper as may be approved by the Registrar.	Representations to be durable
--	-------------------------------

26. Applications for the registration of the same mark in different classes shall be treated as separate and distinct applications, and in all cases where a trade mark is registered under the same official number for goods in more than one class, whether on conversion of the specification under regulation 6 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.	Separate applications
---	-----------------------

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

28. (1) Where a drawing or other representation or specimen cannot be given in the manner aforesaid, a specimen or copy of the trade mark may be sent either of full size or on a reduced scale and in such form as the Registrar may think most convenient.	Specimens of trade marks in exceptional cases
---	---

(2) The Registrar may also, in exceptional cases, deposit in the Office a specimen or copy of any trade mark which cannot conveniently be shown by a representation, and may refer thereto in the register in such manner as he may think fit.

29. Where application is made for the registration of a series of trade marks under subsection (2) of section *twenty-six*, a representation of each trade mark of the series shall be included, all as aforesaid, in the application form, in the duplicate thereof (if any), and six representations of each trade mark of the series shall be pinned on the accompanying Form T.M. No. 3.

Series of trade marks

30. (1) 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 the accompanying Form T.M.No. 3, a sufficient transliteration and translation to the satisfaction 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 or his agent.

Transliteration and translation

(2) 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 endorsed and signed as aforesaid.

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

Search

32. After such search, and consideration of the application, and of any evidence of use or of distinctiveness or of any other matter which the applicant may furnish or may be required to furnish, the Registrar may accept the application absolutely, or he may object to it, or he may express his willingness to accept it subject to such conditions,

Acceptance, absolute or conditional; objection

amendments, disclaimer, modifications or limitations as he may think right to impose.

33. If the Registrar objects to the application, he shall inform the applicant of his objections in writing and, unless within two months the applicant applies for a hearing or makes a considered reply in writing to those objections, he shall be deemed to have withdrawn his application.

Registrar's
objections.
Hearing

34. If the Registrar is willing to accept the application subject to any conditions, amendments, disclaimer, modifications or limitations, he shall communicate such willingness to the applicant in writing, and, if the applicant objects to such conditions, amendments, disclaimer, modifications or limitations, he shall within two months from the date of the communication apply for a hearing or communicate his considered objections in writing, and if he does not do so he shall be deemed to have withdrawn his application. If the applicant does not object to such conditions, amendments, disclaimer, modifications or limitations, he shall forthwith notify the Registrar in writing and alter his application accordingly.

Registrar's
conditions, etc.
Hearing

35. (1) The decision of the Registrar, at a hearing in accordance with regulation 33 or 34, or without a hearing if the applicant has duly communicated his considered objections or considered reply, 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 objects to such decision, he may within two months by applying upon Form T.M. No. 4 require the Registrar to state in writing the grounds of, and the materials used by him in arriving at, his decision.

Decision of
Registrar

(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 such statement in writing. The date when such statement is sent to the applicant shall be deemed to be the date of the Registrar's decision for the purpose of appeal.

36. The Registrar may call on an applicant to insert in his application such disclaimer as the Registrar may think fit, in order that the public generally may understand what the applicant's rights, if his mark is registered, will be.

Disclaimer

37. An application for the registration of a defensive trade mark under section *thirty-two* shall be made, addressed and sent to the Registrar on Form T.M. No. 33, and shall be accompanied by a statement of case setting forth the full particulars of the facts on which the applicant relies in support of his application, verified by an affidavit or solemn declaration made by the applicant or some other person approved for the purpose by the Registrar. The applicant may send with this declaration, or subsequently, such other evidence as he may desire to furnish, whether after request made by the Registrar or otherwise, and the Registrar shall consider the whole of the evidence before deciding on the application. In all other respects, and where they are appropriate and it is not otherwise stated, these Regulations shall apply to such applications as they apply to applications for the registration of ordinary trade marks.

Application
under section
32

38. An application for the registration of a certification trade mark under section *forty-two* shall be made to the Registrar on Form T.M. No. 5 and shall be accompanied by six additional representations of the trade mark on Form T.M. No. 3.

Application
under section
42

39. (1) These Regulations shall apply to such applications as they apply to applications for the registration of ordinary trade marks, except that for references therein to acceptance of an application there shall be substituted references to authorisation to proceed with the application, and that the applicant shall not be deemed to have abandoned his application if in the circumstances of regulation 33 or 34 he does not apply for a hearing or reply in writing.

Authorisation to
proceed

(2) 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 Regulations.

40. The applicant shall send to the Registrar with his application or when required by the Registrar a case setting out the grounds on which he relies in support of his application together with draft regulations for governing the use of the mark and Form T.M. No. 34, all being in duplicate. The Registrar may communicate to the applicant any observations he may have to make on the sufficiency of the case or the suitability of the draft regulations and the applicant may modify either of those documents.

Case; draft
regulations

- 41.** If the Registrar decides to authorise the application to proceed, he may at any time call for such evidence, if any, as he thinks fit, and shall if required hear the applicant before giving directions as provided in sub-paragraph (5) of paragraph 1 of the Schedule to the Act. When such directions have been given and the application has been accepted, the regulations for governing the use of the mark approved by the Registrar, as well as the form of application, shall be open to public inspection. Directions by Registrar
- 42.** (1) An application for the registration of a trade mark required or permitted to be advertised by subsection (1) of section *twenty-three* or paragraph 2 of the Schedule to the Act, shall be advertised in Form T.M. No. 44 in the *Trade Marks Journal* . 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 another applicant, the words "By Consent" shall appear in the advertisement. Advertisement of application
- (2) If no representation of the trade mark be included in the advertisement of the application, the applicant shall refer in such advertisement to the place or places where a specimen or representation of the trade mark is deposited for exhibition.
- (As amended by F.G.N. No. 57 of 1960)
- 43.** For the purposes of such advertisement the applicant may, at the appropriate time, supply or be required to supply a printing block (or more than one, if necessary) of the 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 may be required by the Registrar; and the Registrar, if dissatisfied with the printing block supplied by the applicant or his agent, may require a fresh block before approving of the advertisement. Wood block or electrotype printing
- 44.** When an application relates to a series of trade marks differing from one another in respect of the particulars mentioned in subsection (2) of section *twenty-six*, 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, direct that there shall be inserted with the advertisement of the application a statement of the manner in which the several trade marks differ from one another. Advertisement of series

45. Advertisements under subsection (10) of section *twenty-three* and under subsections (2) and (4) of section *forty* shall *mutatis mutandis* be made in the same manner as advertisements relating to an application for registration.

Advertisement
under sections
23 and 40

46. Any person may within two months from the date of any advertisement in the *Trade Marks Journal* of an application for registration of a trade mark give notice on Form T.M. No. 6 to the Registrar of opposition to the registration.

Opposition

(As amended by F.G.N. No. 57 of 1960)

47. The notice shall include a statement of the grounds upon which the opponent objects to the registration. If registration is opposed on the ground that the mark resembles marks already on the register, the numbers of such trade marks and the dates of the *Trade Marks Journal* in which they have been advertised shall be set out. The notice shall be accompanied by a duplicate which the Registrar will forthwith send to the applicant.

Notice of
opposition

(As amended by F.G.N. No. 57 of 1960)

48. Within two months from the receipt of such duplicate, the applicant shall send to the Registrar a counter-statement on Form T.M. No. 7 setting out the grounds on which he relies as supporting his application. The applicant shall also set out what facts, if any, alleged in the notice of opposition he admits. The counter-statement shall be in duplicate.

Counter-statement

49. Upon receipt of the counter-statement and duplicate, the Registrar shall forthwith send the duplicate to the opponent and, within two months from the receipt of the duplicate, the opponent shall leave with the Registrar such evidence by way of affidavit or solemn declaration as he may desire to adduce in support of his opposition and shall deliver to the applicant a copy of such evidence.

Evidence in
support of
opposition

50. (1) If an opponent leaves no evidence, he shall, unless the Registrar otherwise directs, be deemed to have abandoned his opposition but, if he does leave evidence, then, within two months from the receipt of the copies of such evidence, the applicant shall leave with the Registrar such

Evidence in
support of
application

evidence by way of affidavit or solemn declaration as he desires to adduce in support of his application and shall deliver to the opponent a copy thereof.

(2) An applicant shall, unless the Registrar otherwise directs, be deemed to have withdrawn his application if, within the period of two months referred to in sub-regulation (1), he-

(a) fails to leave with the Registrar such evidence as he desires to adduce in support of his application; or

(b) fails to notify the Registrar in the event of his not desiring to adduce evidence in support of his application.

(As amended by F.G.N. No. 11 of 1961)

51. Within two months from the receipt by the opponent of the copy of the applicant's affidavit or solemn declaration, the opponent may leave with the Registrar evidence by affidavit or solemn declaration in reply, and shall deliver to the applicant a copy of such evidence. This evidence shall be confined to matters strictly in reply. Evidence in reply by opponent

52. 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. Further evidence

53. Where there are exhibits to affidavits or solemn declarations filed in an opposition, a copy or impression of each exhibit 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 originals 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. Exhibits

54. Upon completion of the evidence, the Registrar shall give notice to the parties of a date when he will hear the arguments in the case. Such appointment shall be for a date at least fourteen days after the date of the notice, unless the parties consent to a shorter notice. Within seven days from the receipt of the notice, any party who intends to appear shall so notify the Registrar on Form T.M. No. 8. A party who receives notice as Hearing

aforesaid and who does not, within seven days from the receipt thereof, so notify the Registrar on Form T.M. No. 8 may be treated as not desiring to be heard and the Registrar may act accordingly.

55. Where in opposition proceedings any extension of time is granted to any party, the Registrar may thereafter, if he thinks fit, without giving the said party a hearing, grant any reasonable extension of time to any other party in which to take any subsequent step.

Extension of
time

56. Where a party giving notice of opposition or an applicant sending a counter-statement after receipt of a copy of such a notice neither resides nor carries on business in Zambia, the Registrar may require him to give security, in such form as the Registrar may deem sufficient, for the costs of the proceedings before the Registrar, for such amount as to the Registrar may seem fit, and at any stage in the opposition proceedings may require further security to be given at any time before giving his decision in the case.

Security for
costs

57. In the event of an opposition being uncontested by the applicant, the Registrar in deciding whether costs should be awarded to the opponent shall consider whether proceedings might have been avoided if reasonable notice had been given by the opponent to the applicant before the notice of opposition was lodged.

Costs in
uncontested
case

58. Within two months from the date of any advertisement in the *Trade Marks Journal* of an application for the registration of a certification trade mark, any person may give notice to the Registrar on Form T.M. No. 37 of opposition under paragraph 2 of the Schedule to the Act, and regulations 47 to 57 shall apply *mutatis mutandis* to the proceedings thereon, with substitution of Form T.M. No. 38 for Form T.M. No. 7, and of Form T.M. No. 39 for Form T.M. No. 8. In any case of doubt any party may apply to the Registrar for directions.

Opposition to
application
under section
42

(As amended by F.G.N. No. 57 of 1960)

59. Where registration of a trade mark is not completed within twelve months from the date of application by reason of default on the part of the applicant, the Registrar shall on Form T.M. No. 9 give notice in writing to the applicant at his trade or business address of the non-completion, but if the applicant has authorised an agent for the purpose of the application, he shall instead send the notice to the agent

Non-completion
within twelve
months

and shall send a duplicate thereof to the applicant. If after fourteen days from the date when the notice was sent, or such further time as the Registrar may allow, the registration is not completed, the application shall be deemed to be abandoned.

60. (1) As soon as may be after the expiration of two months from the date of the advertisement in the *Trade Marks Journal* of any application for the registration of a trade mark, the Registrar shall, subject to any opposition and the determination thereof, and subject to the provisions of subsection (1) of section *twenty-four*, and upon payment of the prescribed fee on Form T.M. No. 10, enter the trade mark in the register. In those cases where the applicant has supplied a printing block in accordance with regulation 43, he shall send with his fee a representation of the trade mark agreeing in all respects with the representation then appearing on the form of application, to be affixed by the Registrar to the certificate of registration as required by regulation 63. The entry of a trade mark in the register shall give the date of the registration, the goods in respect of which it is registered, and all particulars named in subsection (1) of section *six*, including both the trade or business address and the address for service (if any), particulars of the trade, business, profession, occupation or other description of the proprietor, particulars of any undertakings by the proprietor entered on the form of application, particulars affecting the scope of the registration or the rights conferred by the registration and such other particulars as are prescribed.

Entry in register

(2) 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 aforesaid entry in the register shall state that it is "By Consent" and shall give the number of the previous registration or the application for registration.

(As amended by F.G.N. No. 57 of 1960)

61. (1) Where a mark is registered as associated with any other mark or marks, the Registrar shall note in the register in connection with the first-mentioned mark the 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 number of the first-mentioned mark as being a mark associated therewith.

Associated marks

(2) An application by a registered proprietor under subsection (5) of

section *twenty-eight* to the Registrar to dissolve the association between two or more associated trade marks shall be made on Form T.M. No. 20, and shall include a statement of the grounds of the application.

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

Death of applicant before registration

63. Upon the registration of a trade mark, the Registrar shall issue to the applicant a certificate in Form T.M. No. 11, and shall affix thereto a copy of the mark, which may be a representation thereof supplied by the applicant under regulation 60.

Certificate of registration

64. At any time not more than six months before the expiration of the last registration of a trade mark, any person may leave at the Office a fee for the renewal of the registration of the mark with Form T.M. No. 12, and, if he is not the registered proprietor, shall sign a statement on the form that he is directed by the registered proprietor to pay the fee (if such be the case) and shall give his address. Before taking any further step, the Registrar may either-

Renewal of registration

(a) require the person leaving the fee to furnish within fourteen days an authority to pay the fee signed by the registered proprietor and, if he does not furnish such authority, may return the fee and treat it as not received: or

(b) communicate with the registered proprietor stating that the fee has been received and that the registration will in due course be renewed.

65. At a date not less than three months and not more than six months before the expiration of the last registration of a mark, if no fee with Form T.M. No. 12 has been received, the Registrar shall notify the registered proprietor in writing of the approaching expiration.

Notice before removal of trade mark from register

66. At a time not less than fourteen days and not more than one month

Second notice

before the expiration of the last registration of a mark, the Registrar may, if no fee as aforesaid has been received, send a notice in writing to the registered proprietor at his trade or business address as well as at his address for service, if any.

<p>67. If at the date of the expiration of the last registration of a mark the renewal fee has not been paid, the Registrar shall advertise the fact forthwith in the <i>Trade Marks Journal</i>. If the Registrar receives the renewal fee with Form T.M. No. 12, together with an additional fee accompanying Form T.M. No. 13, at any time during the period between such date of expiration and one month after such advertisement, he may renew the registration without removing the mark from the register.</p>	<p>Advertisement of non-payment</p>
---	---

(F.G.N. No. 11 of 1961)

<p>68. Where, at the expiration of one month from the advertisement mentioned in regulation 67, the fees therein mentioned have not been paid, the Registrar may remove the mark from the register as of the date of the expiration of the last registration, but may, upon payment of the renewal fee with Form T.M. No. 12 together with a restoration fee accompanying Form T.M. No. 14, restore the mark to the register if satisfied that it is just so to do and upon such conditions as he may think fit to impose.</p>	<p>Removal of trade mark from register</p>
---	--

<p>69. Where a trade mark has been removed from the register, the Registrar shall cause to be entered in the register a record of the removal and of the cause thereof.</p>	<p>Record of removal of mark</p>
--	--

<p>70. 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 <i>Trade Marks Journal</i> .</p>	<p>Notice and advertisement of renewal and restoration</p>
--	--

(As amended by F.G.N. No. 57 of 1960)

<p>71. Where a person becomes entitled by assignment or transmission to a registered trade mark he may, jointly with the registered proprietor, make application to the Registrar on Form T.M. No. 16 to register his title.</p>	<p>Joint application for entry of assignment or transmission</p>
---	--

<p>72. Where a person becomes entitled to a registered trade mark in the manner referred to in regulation 71, and no conjoint application as</p>	<p>Application for entry of</p>
---	-------------------------------------

therein mentioned is made, he shall make application to the Registrar on Form T.M. No. 17 to register his title.

assignment or transmission by subsequent proprietor

73. An application under regulation 71 or 72 shall contain the name, trade or business address and description of the person claiming to be entitled, together with full particulars of the instrument, if any, under which he claims, and such instrument shall be produced for inspection by the Registrar, preferably at the time of application. The full names of all the partners in a partnership shall be given in the body of the application. The Registrar may in any case 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.

Particulars to be stated in application

74. Where, in the case of an application on Form T.M. No. 16 or No. 17, the person applying for registration of his title does not 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 affidavit or solemn declaration on Form T.M. No. 18.

Case accompanying application

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

Proof of title

76. (1) An application under regulation 71 or 72 relating to an assignment, on or after the commencement of the Act, of a trade mark in respect of any goods shall state-

Application for entry of assignment without goodwill

(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 with the Registrar a copy of the

Registrar's directions to advertise the assignment, obtained upon application under subsection (7) of section *twenty-seven* and regulation 80, and such proof, including copies of advertisements or otherwise, as the Registrar may require that his directions have been fulfilled; and, if the Registrar is not satisfied that the directions have been fulfilled, he shall not proceed with the application.

(2) For the purposes of subsection (3) of section *thirty-four*, the period within which a corporation may be registered as the subsequent proprietor of a registered trade mark, upon application made under regulation 71 or 72, shall be six months from the date of advertisement in the *Trade Marks 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 to him on Form T.M. No. 15 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.

(As amended by F.G.N. No. 57 of 1960)

77. When the Registrar is satisfied as to the title of the person claiming to be registered, he shall cause him to be registered as proprietor of the trade mark in respect of the relevant goods, and shall enter in the register his name, trade or business address and description and particulars of the assignment or transmission. Entry in register

78. Where, pursuant to an application under regulation 71 or 72, 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 official number as subsequent proprietors of a trade mark, each of the resulting separate registrations in the names of those different persons shall be deemed to be a separate registration for all the purposes of the Act. Separate registrations

79. Any person who desires to obtain the Registrar's certificate under subsection (5) of section *twenty-seven*, or his notification of approval under subsection (6) of section *twenty-seven*, shall send to the Registrar, with his application on Form T.M. No. 40 or No. 41, 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 Registrar's certificate or approval as to certain assignments and transmissions

shall be amended if required to include all the relevant circumstances and shall if required be verified by affidavit or solemn declaration. 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 fair copies thereof in its final form shall be left with the Registrar. The Registrar shall seal a copy of the statement of case in its final form to the certificate or notification.

80. (1) An application to the Registrar under subsection (7) of section *twenty-seven* shall be made by the assignee on Form T.M. No. 42 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 trade mark, shall show the mark and give particulars of the registered trade mark that has been assigned therewith in accordance with subsection (3) of section *twenty-seven*. 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.

Registrar's
directions for
advertisement
of assignment
without
goodwill of
trade mark in
use

(2) The Registrar may refuse to consider such an application in a case to which subsection (6) of section *twenty-seven* applies, unless his approval has been obtained under the said subsection and a reference identifying the Registrar's notification of approval is included in the application.

(3) A request to the Registrar for an extension of the period within which the application may be made, which shall be on Form T.M. No. 43, 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 be at his discretion.

(As amended by S.I. No. 223 of 1965)

81. (1) A registered proprietor or registered user of a trade mark whose trade or business address or address for service is changed so that the entry in the register is rendered incorrect shall forthwith request the Registrar on Form T.M. No. 19 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.

Alteration of
address in
register

(2) A registered proprietor or 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 T.M. No. 19, 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 the payment of the prescribed fee.

(3) 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 so to do, accept an application from that person on Form T.M. No. 19 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.

(4) All applications under this regulation on Form T.M. No. 19 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.

82. An application to the Registrar under any of the sections *thirty-one, thirty-two, thirty-seven or thirty-eight* for the making, expunging or varying of any entry in the register shall be made on Form T.M. No. 27, 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, it shall be accompanied by a copy of the application and a copy of the statement, and these copies shall be transmitted forthwith by the Registrar to the registered proprietor.

Application to rectify, or remove a trade mark from, the register

83. Upon such application being made, and copy thereof transmitted to the registered proprietor, if necessary, the provisions of regulations 48 to 57 shall apply *mutatis mutandis* to the further proceedings thereon; but the Registrar shall not rectify the register or remove the mark from the register merely because the registered proprietor has not filed a

Further procedure

counterstatement. In any case of doubt any party may apply to the Registrar for directions.

84. Any person other than the registered proprietor alleging interest in a registered trade mark in respect of which an application is made on Form T.M. No. 27 may apply to the Registrar on Form T.M. No. 28 for leave to intervene, stating thereon 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. Before dealing in any way with the application for leave to intervene, the Registrar may require the applicant to give an undertaking to pay such costs as in the circumstances he may award to any party.

Intervention by third parties

85. An application to the Registrar under subsection (1) of section *thirty-nine* for the alteration of the register by correction, change, cancellation or striking out goods, or for the entry of a disclaimer or memorandum, may be made by the registered proprietor of the trade mark or by such person as may satisfy the Registrar that he is entitled to act in the name of the registered proprietor. Such applications shall be made on Form T.M. No. 19, No. 21, No. 22, No. 23, No. 24 or No. 25, as may be appropriate.

Application under section 39 (1)

86. In the case of an application as in regulation 85, the Registrar may require such evidence by affidavit, solemn declaration or otherwise as he may think fit as to the circumstances in which the application is made.

Evidence

87. Where application is made on Form T.M. No. 25 to enter a disclaimer or memorandum relating to a trade mark, the Registrar, before deciding upon such application, shall direct the applicant to advertise the application in the *Trade Marks Journal* in order to enable any person desiring so to do to state, within two months of the advertisement, any reasons in writing against the making of the entry of the disclaimer or memorandum.

Advertisement of certain applications

(As amended by F.G.N. No. 57 of 1960)

88 Where the High Court or the Tribunal has certified as provided in section *fifty-eight* with regard to the validity of a registered trade mark, the registered proprietor thereof may request the Registrar on Form T.M. No. 49 to add to the entry in the register a note that the certificate of validity has been granted in the course of the proceedings, which shall

Certificates of validity to be noted

be named in the form. A certified copy of the certificate shall be sent with the request, and the Registrar shall so note the register and direct the proprietor to publish the note in the *Trade Marks Journal* .

(As amended by F.G.N. No. 57 of 1960)

89. Where a person desires to apply under section *forty* that his registered trade mark may be added to or altered, he shall make his application on Form T.M. No. 26 and shall furnish the Registrar with six copies of the mark as it will appear when so added to or altered.

Alteration of
registered mark

90. The Registrar shall consider the application and shall, if it appears to him expedient, direct the registered proprietor to advertise the application in the *Trade Marks Journal* before deciding it. Within two months from the date of such advertisement, any person may give notice of opposition to the application on Form T.M. No. 47 accompanied by a duplicate of the notice, and may also send therewith a further statement of his objections in duplicate. The Registrar shall send the duplicate notice, and the duplicate of any further statement of objections, to the applicant, and the provisions of regulations 48 to 57 shall apply *mutatis mutandis* to the further proceedings thereon. In any case of doubt any party may apply to the Registrar for directions.

Advertisement
before decision

(As amended by F.G.N. No. 57 of 1960)

91. If the Registrar decides to allow the application, he shall add to or alter the mark in the register and, if the mark so added to or altered has not been advertised under regulation 90, he shall direct the registered proprietor to advertise it in the *Trade Marks Journal*.

Advertisement
after decision

(As amended by F.G.N. No. 57 of 1960)

92. In connection with an application to alter a registered trade mark, the Registrar may at any time call on the applicant to supply a printing block satisfactory to the Registrar and suitable for advertising the mark with the addition or alteration as aforesaid, if in the opinion of the Registrar an advertisement describing the addition or alteration in words would not be likely to be understood by persons interested in the matter.

Supply of
printing block

93. An application on any of the grounds mentioned in paragraph 4 of the Schedule to the Act, made by an aggrieved person to the Registrar for an order expunging or varying an entry in the register of or relating

Orders for
rectification of
certification

to a certification trade mark, or varying the relevant deposited regulations, shall be made on Form T.M. No. 36 and shall include full particulars of the grounds on which the application is made.	trade mark entries and regulations
94. An application by the registered proprietor of a certification trade mark for an alteration of the deposited regulations and the consent of the Registrar thereto shall be made on Form T.M. No. 35. Where the Registrar causes such an application to be advertised, the time within which any person may give notice to the Registrar of opposition to the application shall be two months from the date of the advertisement.	Alteration of certification trade mark regulations
95. Where any document is by these Regulations directed to be served upon the Registrar, it shall be served in duplicate.	Service of documents
96. An application to the Registrar for the registration under section <i>thirty-three</i> of a person as a registered user of a registered trade mark shall be made by that person and the registered proprietor on Form T.M. No. 50.	Application for entry of registered user
97. The date of an entry of a registered user in the register shall be the date upon which the application for registration as a registered user was made. In addition to the trade or business address of the registered user, it may include an address for service, if such has been approved. 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 by the registered proprietor in the <i>Trade Marks Journal</i> . (As amended by F.G.N. No. 57 of 1960)	Entry and notification
98. 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 paragraph (a) of subsection (8) of section <i>thirty-three</i> shall be made on Form T.M. No. 51, 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.	Registered proprietor's application to vary entry
99. An application by the registered proprietor or any registered user of a trade mark for the cancellation of the registration of a registered user of that trade mark under paragraph (b) of subsection (8) of section	Application by registered proprietor or

thirty-three shall be made on Form T.M. No. 52, and shall be accompanied by a statement of the grounds on which it is made.

user to cancel entry

100. An application by any person for the cancellation of the registration of a registered user under paragraph (c) of subsection (8) of section *thirty-three* shall be made on Form T.M. No. 53, and shall be accompanied by a statement of the grounds on which it is made.

Application under section 33 (8) (c) to cancel entry

101. The Registrar shall notify in writing applications under regulations 98, 99 and 100 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 proceedings shall within two months of the receipt of such notification give notice to the Registrar on Form T.M. No. 54 to that effect and shall send therewith a statement of the grounds of his intervention. The Registrar shall thereupon send copies of such notice and statement to the other parties, so that the intervention may be known to 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 may appoint, leave evidence in support of his case, and the Registrar after giving the parties an opportunity of being heard may accept or refuse the application or accept it subject to such conditions, amendments, modifications or limitations as he may think right to impose.

Notification and hearing

102. (1) Applications under subsection (2) of section *thirty-nine* shall be made on Form T.M. No. 19, No. 21 or No. 22, as may be appropriate, by a registered user of a trade mark, or by such person as may satisfy 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 solemn declaration or otherwise as he may think fit as to the circumstances in which the application is made.

Registered user's application under section 39 (2)

(2) In case of the registration of a registered user of a period, in accordance with paragraph (d) of subsection (4) of section *thirty-three*, the Registrar shall cancel the entry of the registered user at the end of the period. Where some or all of the goods are struck out from those in respect of which a trade mark is registered, the Registrar shall at the same time strike them out from those specifications of registered users of the trade mark in which they are comprised. The Registrar shall notify every cancellation or striking out under this sub-regulation to the registered users whose permitted use is affected thereby and the

registered proprietor of the trade mark.

- | | |
|--|---------------------------------|
| <p>103. 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 proceedings under these Regulations, not being a time expressly provided in the Act or prescribed by regulation 76 or 80, he may extend the time upon such notice to other parties, and proceedings thereon, and upon such terms as he may direct, and the extension may be granted though the time has expired for doing the act or taking the proceeding.</p> | <p>Extension of time</p> |
| <p>104. Whenever the last day fixed by these Regulations for doing any act or thing at the Office shall fall on a day when the Office is not open, which day shall be an excluded day for the purposes of these Regulations, it shall be lawful to do the act or thing on the first day following such excluded day which is not an excluded day.
<i>(As amended by F.G.N. No. 11 of 1961)</i></p> | <p>Excluded days</p> |
| <p>105. Before exercising adversely to any person any discretionary power given to the Registrar by the Act or by these Regulations, the Registrar shall, if so required, hear such person thereon.</p> | <p>Hearing</p> |
| <p>106. An application for a hearing shall be made within one month from the date of notification by the Registrar of any objection to an application or the date of any other indication that he proposes to exercise a discretionary power.</p> | <p>Application for hearing</p> |
| <p>107. (1) Upon receiving such application the Registrar shall give the person applying fourteen days' notice of a time when he may be heard.</p> | <p>Notice of hearing</p> |
| <p>(2) Within seven days from the date when such notice would be delivered in the ordinary course of post, the person applying shall notify the Registrar whether or not he intends to be heard on the matter.</p> | |
| <p>108. The decision of the Registrar in the exercise of any such discretionary power as aforesaid shall be notified to the person affected.</p> | <p>Notification of decision</p> |
| <p>109. Where under these Regulations any person is required to do any</p> | <p>Dispensing with</p> |

act or thing, or to sign any document, or to make any declaration on behalf of himself or of any body corporate, or any document or evidence is required to be produced to or left with the Registrar, or at the Office, and it is shown to the satisfaction of the Registrar that from any reasonable cause such person is unable to do such act or thing, or to sign such document, or to make such declaration, or that such document or evidence cannot be produced or left as aforesaid, it shall be lawful for the Registrar, upon the production of such other evidence, and subject to such terms as he may think fit, to dispense with any such act or thing, signature, declaration, document or evidence.

evidence

110. Any document or drawing or other representation of a trade mark may be amended, and any irregularity in procedure which in the opinion of the Registrar may be excused without detriment to the interests of any person may be corrected, if the Registrar thinks fit, and on such terms as he may direct.

Amendment of documents

111. The Registrar may give a certificate, other than a certificate under subsection (2) of section *twenty-four*, as to any entry, matter of thing which he is authorised or required by the Act or these Regulations to make or do, upon receipt of a request therefor on Form T.M. No. 32 from any person who, if the Registrar thinks fit so to require, can show an interest in the entry, matter or thing to his satisfaction. The Registrar shall not be obliged to include in the certificate a copy of any mark, unless he is furnished by the applicant with a copy thereof suitable for the purpose.

Certificates by Registrar

112. The affidavits and solemn declarations required by the Act and Regulations, or used in any proceedings thereunder, shall be accepted if made and subscribed before any Judge, magistrate, notary public under his signature and seal of office, or by the Registrar of a Court of Justice or by a commissioner for oaths.

Manner in which and person before whom affidavit or solemn declaration is to be taken

113. Any person may request the Registrar on Form T.M. No. 29 to cause a search to be made in respect of specified goods classified in any one class of the Third Schedule or the Fourth Schedule to ascertain whether any mark is on record at the date of the search which 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.

Searches

114. The Office shall be open to the public and the register shall be open to inspection on payment of the fee specified in the First Schedule every weekday, except Saturday, between the hours of nine and one, and two and half-past three; except on public holidays.

Days and hours of business

115. (1) Any person who wishes to appeal against a decision of the Registrar shall-

Procedure on appeal from decision of Registrar

(a) submit his case in writing to the Registrar who shall furnish that person with his written decision and his grounds therefor;

(b) within three months from the date of the decision of the Registrar-

(i) leave at the Office a notice in Form T.M. No. 31;

(ii) file with the registrar of the Tribunal a notice of appeal in accordance with the provisions of the Trade Marks (Tribunal) Rules.

(2) The provisions of sub-regulation (1) shall not apply in the case of an application within regulations 31 to 35.

116. A copy of every application made to the Tribunal under the Act shall be served on the Registrar.

Copy of application to Tribunal to be served on Registrar

117. Where an order has been made by the High Court or the Tribunal in any case under the Act, the person in whose favour such order has been made, or such one of them, if more than one, as the Registrar may direct, shall forthwith leave at the Office a certified copy of such order, together with Form T.M. No. 48 if required. The register may, if necessary, thereupon be rectified or altered by the Registrar.

Order of High Court or Tribunal

118. Whenever an order is made by the High Court or the Tribunal under the Act the Registrar may, if he thinks fit that the order should be made public, require the applicant or the appellant, as the case may be,

Publication of order of High Court or

to publish it in the *Trade Marks Journal*.
(As amended by F.G.N. No. 57 of 1960)

Tribunal

APPENDIX
(Regulation 2)

FIRST SCHEDULE

(Regulation 3)

TARIFF OF FEES PAYABLE TO THE REGISTRAR OF TRADE MARKS

WITH EFFECT FROM 1ST MAY 1995

The following fees shall be paid in respect of applications, registrations and other matters under the Act. Such fees must in all cases be paid before or at the time of doing the matter in respect of which they are to be paid.

<i>Amount</i>	<i>Amount</i>			<i>No.</i>
	<i>Payable by</i>	<i>Payable by</i>	<i>Corre-</i>	
<i>Item</i>	<i>Local</i>	<i>Foreign</i>	<i>spond-</i>	
<i>Fee units</i>	<i>Firms,</i>	<i>Firms,</i>	<i>ing</i>	
	<i>Corpora-</i>	<i>Corporations</i>	<i>Form</i>	
	<i>tions and</i>	<i>and</i>		
	<i>Matter or Proceeding</i>	<i>Individuals</i>	<i>Individuals</i>	
	<i>US\$</i>			
1. (a) On application not otherwise charged to register a trade mark for a specification of goods included in one class	15	150.00	2	
(b) On application to register a series of trade marks under subsection (2) of section 26 for a specification of goods included in one class	15	150.00	2	
(c) On application to register a defensive trade mark for a specification of goods included in one class	14	150.00	33	
(d) On application under section 42 to register a certification trade mark for a specification of goods included in one class	14	150.00	5	
(e) On application made at the				

same time under section 42 to register one certification trade mark for a specification of goods not all included in one class, in respect of each class	14	150.00	5
2. On a request to the Registrar to state grounds of decision relating to an application to register a trade mark and materials used	25	170.00	4
3. (a) On notice of opposition before the Registrar under section 23, for each application opposed	8	22.00	6
(b) On lodging a counter-statement in answer to a notice of opposition under section 23, or in answer to an application under any of sections 31, 32, 37 and 38, or in answer to a notice of opposition under section 40 or 41, in respect of each trade mark	5	14.00	7
(c) On the hearing of each opposition under section 23 (fee payable by the applicant and by the opponent), or on the hearing of an application under any of sections 31, 32, 37 and 38 (fee payable by the applicant and by the proprietor), or on the hearing of an opposition under section 40 or 41, (fee payable by the proprietor and by the opponent)	8	22.00	8
(d) On notice of opposition before the Registrar paragraph 2 of the Schedule to the Act, for each application opposed	8	22.00	37
(e) On Lodging a counter-			

statement in answer to a notice of opposition before the Registrar under paragraph 2 of the Schedule to the Act, for each application opposed	5	14.00	38
(f) On the hearing of each opposition before the Registrar under paragraph 2 of the Schedule to the Act (fee payable by the applicant and by the opponent)	5	14.00	39
4. (a) For one registration of a trade mark not otherwise charged for a specification of goods included in one class	25	150.00	10
(b) For one registration of a series of trade marks under subsection (2) of section 26 of a specification of goods included in one class-			
For the first mark	25	150.00	10
And for every other mark of the series	6	8.00	10
(c) For registration under section 42 of a certification trade mark for a specification of goods included in one class	25	150.00	10
(d) For registration upon applications made at the same time of one certification trade mark under section 42, for specifications of goods not all included in one class, in respect of each class	25	158.00	10
(e) For one registration of a defensive trade mark for a specification of goods included in one class	25	160.00	10
5. (a) Upon each addition to the registered entry of a trade mark of a note that the mark			

is associated with newly registered mark	6	15.00	10
(b) On an application to dissolve the association between registered trade marks	4	10.00	20
6. (a) On application to register a registered user of a registered trade mark in respect of goods within the specification thereof	20	130.00	50
(b) On application to register the same registered user of more than one registered trade mark of the same registered proprietor in respect of goods within the respective specifications thereof and subject to the same conditions and restrictions in each case-			
For the first mark	20	130.00	50
And for every other mark of the proprietor included in the application and statement of case		7	20.00 50
(c) On application by the proprietor of a single trade mark, under paragraph (a) of subsection (8) of section 33, to vary the entry of a registered user thereof	15	75.00	51
(d) On application by the proprietor of more than one trade mark, under paragraph (s) of subsection (8) of section 33, to vary the entries of a registered user thereof-			
For the first mark	15	75.00	51
And for every other mark of the proprietor for which the same user is registered included in the application	6	15.00	51
(e) On application by the			

<p>proprietor or registered user of a single trade mark, under paragraph (b) of subsection (8) of section 33, for cancellation of the entries of registered user thereof</p>	15	75.00	52
<p>(f) On application by the proprietor or registered user of more than one trade mark, under paragraph (b) of subsection (8) of section 33, for cancellation of the entries of registered user thereof-</p> <p>For the first mark</p>	15	75.00	52
<p>And for every other mark of the proprietor for which the same user is registered included in the application</p>	6	15	64
<p>(g) On application under paragraph (c) of subsection (8) of section 33, to cancel the entry of a registered user of a single trade mark</p>	15	75.00	53
<p>(h) On application, under paragraph (c) of subsection (8) of section 33, to cancel the entries of a registered user of more than one trade mark-</p> <p>For the first mark</p>	15	75.00	53
<p>And for every other mark of the same proprietor for which the same user is registered included in the application</p>	6	15.00	53
<p>(i) On notice, under subsection (9) of section 33 and regulation, 101, of intention to intervene in one proceeding for the variation or cancellation of entries of a registered user of trade marks</p>	10	35.00	54

7. (a) On request to enter in the register and advertise a certificate of validity, under section 58 and regulation 88-			
For the first registration certified	6	15,00	49
And for every other registration certified in the same certificate	2	5.00	49
(b) On application under subsection (3) of section 34 and regulation 76, for extension of time for registering corporation as subsequent proprietor of trade marks on one assignment, where the extension-			
does not exceed two months	10	35.00	15
exceeds two months but does not exceed four months	15	75.00	15
exceeds four months but does not exceed six months	20	130.00	15
8. (a) On application for certificate of the Registrar under subsection (6) of section 27 and regulation 79-			
For the first mark proposed to be assigned	15	75.00	40
And for every other mark of the same proprietor included in that assignment	6	15.00	40
(b) On application for approval of the Registrar, under subsection (6) of section 27 and regulation 79-			
For the first mark	15	75.00	41
And for every other mark of the same			

proprietor included in the same transfer	6	15.00	41
(c) On application for directions by the Registrar for adverti- sement of assignment of trade marks in use, without good- will-			
For one mark assigned	15	75.00	42
And for every other mark assigned with the same devolution of title	6	15.00	42
(d) On application for extension of time for applying for advertisement of assignment of trade marks in use, without goodwill in respect of one devolution of title, where the extension-			
does not exceed two months	15	75.00	43
exceeds two months but does not exceed four months	20	130.0	43
exceeds four months but does not exceed six months	10	35.00	43
9. (a) On application to register a subsequent proprietor in a case of assignment or transmission of a single trade mark-			
If made within six months from the date of acquisition of proprietorship	15	75.00	16 or 17
If made after the expiration of six months but within twelve months from the date of acquisition of proprietorship	20	130.00	16 or 17
If made after expiration of twelve months from the date of acquisition of proprietorship	25	150.00	16 or 17
(b) On application to register			

a subsequent proprietor of more than one trade mark standing in the same name, the devolution of title being the same in each case-

If made within six months from the date of acquisition of proprietorship or 1st April, 1958-

For the first mark	20	130.00	16 or 17
And for every other mark	6	15.00	16 or 17

If made after expiration of six months but within twelve months from the date of acquisition of proprietorship-

For the first mark	20	130.00	16 or 17
And for every other mark	6	15.00	16 or 17

10. (a) On application to change the name or description of a proprietor or a registered user of a single trade mark, where there has been no change in proprietorship or in the identity of the user

30	200.00	22
----	--------	----

(b) On application to change the name or registered user of more than one trade mark standing in the same name, where there has been no change in the proprietorship, the change being the same in each case-

For the first mark	30	200.00	22
And for every other mark		6 15.00	22

11. (a) For renewal of registration of a trade mark at the expiration of last registration

50	450.00	12
----	--------	----

(b) For renewal of registration of a series of trade marks

under subsection (2) of section 26 at the expiration of last registration-			
For the first mark of the series	50	450.00	12
And for every other mark of the series	10	35.00	12
(c) For renewal of registration of the same certification trade mark with the same date for goods in more than one class, in respect of every class	15	75.00	12
Provided that for any number of classes, the fee shall in no case exceed	50	450.00	12
(d) Additional fee under regulation 67	10	35.00	13
(e) Restoration fee under regulation 68	20	130.00	14
12. (a) On application to the Registrar for leave to add to, or alter a single registered mark		20	130.00 26
(b) On application to the Registrar for leave to add to, or alter more than one registered trade mark of the same proprietor, being identical marks, the addition or alteration to be made in each case being the same-			
For the first mark	20	130.00	26
And for every other mark	-	-	26
(c) On notice of opposition to to application for leave to add to or alter registered trade marks, for each application opposed	20	130.00	47
13. For altering one or more of the trade or business address or address for service of a registered proprietor or a			

registered user of a trade mark, where the address in each case is the same and is altered in the same way (unless exempted from fee under regulation 81)-			
For the first entry	15	75.00	19
And for every other entry	5	14.00	19
14. For every entry in the register or a rectification thereof or an alteration therein, not otherwise charged	15	75.00	48
15. For cancelling the entry of a trade mark upon the register on the application of the registered proprietor of the trade mark	5	14.00	23
16. (a) On Application under any of sections 31, 32, 37 and 38 for rectification of the register or removal of trade mark from the register	8	22.00	27
(b) On application for leave to intervene in proceedings under any of sections 31, 32, 37 and 38 for rectification of the register or removal of a trade mark from the register	5	14.00	21
17. (a) On application for correction of one clerical error or effecting an amendment in one document before registration of any matter	5	14.00	21
(b) On application for correction of clerical errors after registration of any matter in respect of mark	8	20.50	21
(c) On application for amendment of trade mark before advertisement, in respect of each application	5	14.00	21
18. On request by registered proprietor of a trade mark for			

entry of disclaimer or memorandum in the register	10	35.00	25
19. (a) On application to the Registrar under regulation 93 to expunge or vary the registration of a certification trade mark or to vary the deposited regulations or a certification trade mark or certification trade marks of the same registered proprietor, where the regulations are substantially the same	8	22.00	36
(b) On request to the Registrar by the registered proprietor of a certification trade mark to permit alteration of the deposited regulations thereof- For the regulations of one such registration	8	22.00	35
For the same or substantially the same regulations of each other registration proposed to be altered in the same way and included in the same request	2	5.00	35
20. (a) On application by registered proprietor under regulation 6, for conversion of specification	2	5.00	45
(b) On notice of opposition to a conversion of the specification or specifications of a registered trade mark or registered trade marks- For one mark	8	22.00	46
For every other mark of the same proprietor having same specification	2	5.00	46
21. Notice to Registrar that notice of appeal has been filed with the Registrar of the Tribunal	8	5.00	3
22. For each search under regulation			

113 in respect of one class, without application for Registrar's advice under regulation 20	10	35.00	29
23. On request for the Registrar's preliminary advice under regulation 20, for each trade mark submitted in respect of one class	10	35.00	30
24. For certification of the Registrar (other than certificate under subsection (2) of section 24) relating to the registration of a trade mark		10	35.00 32
25. For certification of the Registrar (other than a certificate under subsection (2) of section 24) relating to the registration of a series of trade marks under subsection (2) of section 26	10	35.00	32
26. (a) For permission to search in files and documents, for each file searched	5	20.00	
(b) For permission to search register, per volume	2	20.00	
27. For permission to search amongst the classified representations or scrap books of trade marks, per volume	5	20.00	
28. For typewritten copy of any document, for every 100 words	2	10.00	
29. For photographic copy of documents or drawings, per sheet	2	5.00	
30. For certifying office copies, MSS., or photographic or printed matters- under seal	5	20.00	
other	2	5.00	
31. On every authorisation of an agent	5	14	

For the purpose of these fees, every mark under section 26 of the Act (or any preceding similar enactment) shall, except as specially provided above, be taken to be a mark separately registered.

(As amended by S.I. No. 56 of 1995 and Act No. 13 of 1994)

REPUBLIC OF ZAMBIA
FORM T.M. NO. 1
Regulation 14

THE TRADE MARKS ACT
Fee unit: 5

FORM OF AUTHORISATION OF AGENT

I/We (1)

(1) The full names of all the partners in a firm must be inserted, and the kind and country of incorporation of bodies corporate stated

have appointed (2)

(2) Here insert name and address of agent

of

to act as my/our agent for (3)

(3) Here state the particular matter or proceeding for which the agent is appointed, giving the reference number, if known

No

and request that all notices, requisitions and communications relating thereto may be sent to such agent at the above address.

I/We hereby revoke all previous authorisations, if any, in respect of the same matter or proceeding.

I/We hereby declare that I am/we are a (4)

(4) Here state nationality

Dated this day of, 19

(5)

(5) To be
signed by
person
appointing
the agent

Address (6)

(To be struck out if the person appointing the agent desires his own address to be treated as the address for service after registration.)

(6) Here
insert the
full trade
or business
address of
the person
appointing
the agent

I/We also authorise the said (2)

to complete the entry of an address for service as part of any registration obtained under the above authorisation.

Dated this day of, 19

(5)

Address (6)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 2
Section 22 or 26
Regulation 21

THE TRADE MARKS ACT
Fee: 1 or 1 (a)

APPLICATION FOR REGISTRATION OF TRADE MARK IN PART* OF THE
REGISTER

* Write
distinctly
here "A" or
"B"
according to
the
registration
desired

One representation to be fixed within this space and six others to be pinned on to and sent with Form T.M. No. 3.

Application is hereby made for registration in Part* of the register of the accompanying
trade mark in Class

in respect of (1)

(1) Here
specify the
goods.
Only
goods
included in
one and
the same
class
should be
specified
A separate
application
form is
required
for each
class

in the name of (2) whose

(2) Here insert legibly the full name, description and nationality of the individual, firm, or body corporate making the application. The names of all partners in a firm must be given in full. If the applicant is a body corporate, the kind and country of incorporation should be stated

trade or business address is (3)

(3) Here insert the full trade or business address of the applicant

trading as (4)
by whom it is (5) proposed to be used and who claim(s) to be the proprietor(s) thereof.

(4) Here insert the trading style (if any)
(5) If the mark is already in use, strike out the

words:
"proposed
to be" and
insert
"being"

(6)

(6) For
additional
matter if
required;
otherwise
to be left
blank

Dated this day of, 19

(7)

(7)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 3
Sections 22 and 26 (2)
Regulations 24, 29, 30 and 38

THE TRADE MARKS ACT

ADDITIONAL REPRESENTATION OF TRADE MARK TO ACCOMPANY
APPLICATION FOR REGISTRATION

Six representations of the trade mark must be pinned within this space. They must correspond *exactly* in all respects with the representations affixed to the application form.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 4
Section 22 (5)
Regulation 35

THE TRADE MARKS ACT
Fee units: 25 2,528

REQUEST FOR STATEMENT OF GROUNDS OF DECISION

IN THE MATTER OF (1)

the Registrar is hereby requested to state in writing the grounds of his decision, dated the
day of, 19,
after the hearing on the day of, 19,
and the materials used by him in arriving at the decision.

Dated this day of, 19,

(2)

My/Our address for service in Zambia:

(1) Insert
words and
number
identifying
the matter
or
proceeding

(2)
Signature

If the Registrar has made any requirement to which the applicant does not object, the
applicant shall comply therewith before the Registrar issues the grounds of his decision.
The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 5
Section 42
Regulations 21 and 38

THE TRADE MARKS ACT
Fee: 1 (*c*) or 1 (*d*)

APPLICATION FOR REGISTRATION OF CERTIFICATION TRADE MARK

One representation to be fixed within this space, and six others to be pinned on to and sent with Form T.M. No. 3

Application is hereby made for registration in Part C of the register of the accompanying certification trade mark in Class
in respect of (1)

(1) Here specify the goods. Only goods in one and the same class should be specified. A separate application form is required for each class

of (2)

(2) State the full name,

description
and
nationality of
the applicant.
If the
applicant is a
body
corporate,
the kind and
country of
incorporation
should be
stated

whose address is (3)

(3) Here
insert the
full
address of
the
applicant

Dated this day of, 19,

(4)

(4)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 6
Section 23
Regulation 46

THE TRADE MARKS ACT
Fee units: 9

NOTICE OF OPPOSITION TO APPLICATION FOR REGISTRATION OF A TRADE
MARK
(To be lodged in duplicate)

IN THE MATTER OF an application No

by of

I/We (1)
hereby give notice of my/our intention to oppose the registration of the trade mark adver-
tised under the above number for Class

(1) State
full name
and
address

in the *Trade Marks Journal* of the day of

19, No , page

The grounds of opposition are as follows:

(2)

Dated this day of, 19,

(2) If
registration
is opposed
on the
around that
the mark
resembles
marks
already on
the

register,
the
numbers of
those
marks and
of the
Trade
Marks
Journal in
which they
have been
advertised
are to be
set out

(3)

My/Our address for service in Zambia:

(3)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 7
Section 23, 31, 32, 37, 38, 40 or 41
Regulation 7, 48, 83 or 90

THE TRADE MARKS ACT
Fee units: 6

FORM OF COUNTER-STATEMENT
(To be lodged in duplicate)

IN THE MATTER OF an opposition No , to
Application No.

I/We, the
applicant(s) for registration of the above trade mark, hereby give notice that the following
are the grounds on which I/we rely as supporting my/our application:

I/We admit the following allegations in the notice of opposition:

Dated this day of, 19,

(1)

(1)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,

Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 8
Section 23, 31, 32, 37, 38, 40 or 41
Regulation 7, 54, 83 or 90

THE TRADE MARKS ACT
Fee units: 9

NOTICE TO THE REGISTRAR OF ATTENDANCE AT HEARING

I/We (1)
of
hereby give notice that the hearing of the arguments in the case of:

(1) State
full name
and
address

(2) (a) opposition No. to application for
registration of a trade mark No. ;
(b) application that the entry in the register in respect of trade mark No.
 may be removed;

(2) Strike
out words
here that
are not
applicable,
so as to
state one
of the
cases (a) to
(e) only

(c)
may be amended by alteration of or addition to the trade mark;

(d)
may be amended by a conversion of the specification of goods;

(e)
may be amended otherwise than by any change in the mark or of the specification on
conversion.

which, by the Registrar's Notice to me/us dated the
day of , 19, is fixed for a.m. or
p.m. at the Trade Marks Office on the day of
 , 19, will be attended by me/us or by some
person on my/our behalf.

Dated this day of, 19,

(3)

(3)
Signature

(4)

(4)
Address

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 9
Section 24 (3)
Regulation 59

THE TRADE MARKS ACT

NOTICE OF NON-COMPLETION OF REGISTRATION

No

The Registrar, as required by subsection (3) of section 24 of the Trade Marks Act, and regulation 59 of the Trade Marks Regulations, has to point out that the registration of the trade mark, in respect of which your application numbered as above was made on the day of, 19, has not been completed by reason of your default. Unless it is completed within fourteen days from this date the application will be treated as abandoned.

Dated this day of, 19,

To

.....

.....

.....

The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 10
Section 24, 26 or 42
Regulation 60

THE TRADE MARKS ACT

Fee: 4, 4 (a), 4 (b), 4 (c) or 4 (d) and 5

FEE FOR REGISTRATION OF A TRADE MARK

(If the Applicant has furnished a printing block for advertisement, this form must be accompanied by one unmounted representation of the mark, exactly as shown on the form of application.)

The prescribed fee for the registration of the trade mark No.
in Class is hereby transmitted.

Dated this day of, 19,

(1)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(1)

Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 11

THE TRADE MARKS ACT

CERTIFICATE OF REGISTRATION

The Trade Mark shown above has been registered in Part
of the Register in the name of

in Class under No. as of the
, 19, in respect of

Sealed at my direction, this day of, 19

Register

The Trade Marks Office,
Lusaka,
Zambia.

Registration is for 7 years from the date first above mentioned, and may then be renewed, and also at the expiration of each period of 14 years thereafter.

NOTE.-Upon any change of ownership of this trade mark, or change in address, application should AT ONCE be made to the Registrar to register the change.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 12
Section 25
Regulation 64

THE TRADE MARKS ACT
Fee: 11, 11 (a) or 11 (b)

***RENEWAL OF REGISTRATION OF TRADE MARK**

I/We (1)

of

hereby leave the prescribed fee of for renewal of

registration of the trade mark No. in Class***,

which I am/we are directed by the proprietor of the trade mark, that is to say by

(2) to pay.

Dated this day of, 19,

(3)

The statement on the back of this form must be filled in and signed.

(1) State
the name
and
address of
the person
leaving the
fee

*** If the
fee is left
by the
proprietor
himself,
this
passage
should be
be struck
out

(2) If the
fee is not
left by the
proprietor
himself,
insert his
name and
address
here

(3)
Signature
and
address of

The Registrar,
The Trade Marks Office,
Lusaka,

the person
leaving the
fee

*This form will be returned if it is filed more than six months before the expiration of the last registration.

(To appear on the back of the form)

The Registrar is requested to send notice of renewal of the registration to (4) the registered proprietor at the following address:

(4) If the request is signed by the registered proprietor, strike out here the words "the registered proprietor" and substitute the word "me"

(5)

(5)
Signature

Dated this day of, 19

REPUBLIC OF ZAMBIA
FORM T.M. NO. 13
Section 25
Regulation 67

THE TRADE MARKS ACT

Fee Unit: 176

ADDITIONAL FEE UNIT OF 1 TO ACCOMPANY RENEWAL FEE (FORM T.M. NO. 12)

WITHIN ONE MONTH AFTER ADVERTISEMENT OF NON-PAYMENT OF RENEWAL FEE

(To accompany Form T.M. No. 12)

In pursuance of the notices issued by the Registrar, I/We hereby transmit the additional fee unit of 1 (along with Form T.M. No. 12) for the renewal of the registration of the trade

mark No. in Class

Dated this day of, 19,

(1)

(1)

Signature

(2)

(2)

NOTE.-This form must be signed by the person(s) signing the Form T.M. No. 12 which accompanies it.

Address

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 14
Section 25
Regulation 68

THE TRADE MARKS ACT
Fee: K176

**RESTORATION OF TRADE MARK REMOVED FROM REGISTER FOR
NON-PAYMENT OF FEE**

(To accompany Form T.M. No. 12)

In pursuance of the notices issued by the Registrar, I/We hereby transmit the additional fee
unit of 1 (along with Form T.M. No. 12) for the restoration to the register of the trade

mark No. in Class

Dated this day of, 19,

(1)

(1)

Signature

(2)

(2)

NOTE.-This form must be signed by the person(s) signing the Form T.M. No. 12 which
accompanies it.

Address

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 15
Section 34 (3)
Regulation 76

THE TRADE MARKS ACT
Fee: 7 (a)

APPLICATION FOR EXTENSION OF TIME, IN ACCORDANCE WITH
SECTION 34 (3), FOR THE REGISTRATION OF THE NAME OF A
CORPORATION AS SUBSEQUENT PROPRIETOR OF A
TRADE MARK IN THE REGISTER

Application is hereby made by (1)

of

for

(1) Here
state the
name and
address of
the
applicant

an extension of time by (2) months of the period of
six months allowed by subsection (3) of section 34 and regulation 76 for registering its
name, by force of one assignment, as proprietor of the following trade mark(s) registered
upon application(s) conforming to paragraph (a) of subsection (1) of section 34:

(2) Here
insert
"two" or
"four" or
"six"

(3) Registration Number

Class

(3)
Additional
numbers
may be
given in a
signed
schedule
on the
back of the
form

.....

.....

.....

Dated this day of, 19,

(4)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(4)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 16
Section 27
Regulation 71

THE TRADE MARKS ACT
Fee: 9 or 9 (*a*)

JOINT REQUEST TO THE REGISTRAR BY REGISTERED PROPRIETOR AND
TRANSFeree TO REGISTER THE TRANSFeree AS SUBSEQUENT PROPRIETOR
OF
TRADE MARKS UPON THE SAME DEVOLUTION OF TITLE

We (1)

(1) State
name and
address of
registered
proprietor,
or other
assignor or
transmitter

and (2)

(2) State
full name,
trade
address
and
nationality
of
transferee

hereby request, under regulation 71, that the name of (3)

(3) Name
of
transferee

carrying on business as (4)

(4)
Description
of
transferee

at (5)

may be entered in the register of trade marks as proprietor of the trade mark(s)

(5) Trade
or business
address of

No * in Class as from	transferee * Additional numbers may be given in a signed schedule on the back of the form
the (6) by virtue of	(6) Date of acquisition of proprietorship
(7)	(7) Full particulars of the instrument of assignment or transmission, if any, or statement of case
(8) The trade mark at the time of the assignment was (8) not/used in a business in the goods in question, and the assignment (8) took/did not take place on or after the commencement of the Act otherwise than in connection with the goodwill of a business in the goods, (8) and there is sent herewith a copy of the Registrar's direction to advertise the assignment, a copy of each of the advertisements complying therewith, and a statement of the dates of issue of any publication containing them. Dated this day of, 19,	(8) Strike out any words not applicable (see regulation 76)
(9)	(9) Signature of assignor or transmitter
Our address for service in Zambia: (10)	(10) Signature of

transferee

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 17
Section 27
Regulation 72

THE TRADE MARKS ACT
Fee: 9 or 9 (a)

REQUEST TO THE REGISTRAR TO REGISTER A SUBSEQUENT PROPRIETOR OF
A
TRADE MARK OR TRADE MARKS UPON THE SAME DEVOLUTION OF TITLE

I/We (1)

hereby request that my/our names
may be entered in the register of trade marks as proprietor(s) of trade mark(s)

No. * in Class

as from the (2)

I am/we are entitled to the trade mark(s) by virtue of (3)

(1) Here
state full
name,
trade or
business
address,
nationality
and
description

*
Additional
numbers
may be
given in a
signed
schedule
on the
back of the
form

(2) Date of
acquisition of
proprietorship

(3) Here
insert full
particulars of
the
instrument
of

assignment
or
transmission,
if any, or
statement of
case

(4) The trade mark at the time of the assignment was (4) not/used in a business in the goods in question, and the assignment (4) took/did not take place on or after the commencement of the Act otherwise than in connection with the goodwill of a business in the goods, (4) and there is sent herewith a copy of the Registrar's direction to advertise the assignment.
Dated this day of, 19,

(4) Strike
out any
words not
applicable
(see
regulation
76)

(5)
My/Our address for service in Zambia:

(5)
Signature

NOTE.-The instrument under which the transferee claims should preferably accompany this form.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 18
Section 27
Regulation 74

THE TRADE MARKS ACT

AFFIDAVIT/SOLEMN DECLARATION (ONLY TO BE FURNISHED WHEN
REQUESTED
BY REGISTRAR) IN SUPPORT OF STATEMENT OF CASE ACCOMPANYING
FORM
T.M. NO. 16 OR NO. 17

I,
of

do hereby make* oath and say/solemnly and sincerely declare that the particulars set out
in the statement of case, exhibit marked , and
left by me in connection with my request to be registered as subsequent proprietor of the
trade mark No. in Class, are true
and comprise every material fact and document affecting the present proprietorship of the
trade mark.

* Strike out
whichever
is
inapplicable

And I make this affidavit/solemn declaration conscientiously believing the same to
be true.

(1)

Declared at , this day
of , 19

(1) To be signed
here by the
person making
the
affidavit/solemn
declaration

Before me (2)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(2) Signature
and title of
authority before
whom the
affidavit/solemn
declaration is
made

REPUBLIC OF ZAMBIA
FORM T.M. NO. 19
Section 39
Regulations 81, 85 and 102

THE TRADE MARKS ACT
Fee: 13 or nil

REQUEST FOR ALTERATION OF TRADE OR BUSINESS ADDRESS OR ADDRESS
FOR
SERVICE IN REGISTER OF TRADE MARKS

IN THE MATTER OF the trade mark(s) No. *
 registered in Class
 I/We
 of

*
Additional
numbers
may be
given in a
signed
schedule
on the
back of the
form

being the registered (1) proprietor(s)/user(s) of the trade mark(s) numbered as above,
request that my/our trade address in the register of trade marks be altered to

(1) Strike
out one of
these
words

Dated this day of, 19,

(2)

NOTE.-A registered proprietor or registered user whose address has been altered by a public authority, so that the changed address designates the same premises as before, may make also the statement below in order to avoid payment of the fee.

(2)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(For use only in case of an address changed by a public authority, without change of premises)

The change of address, for the entry of which application is made above, was ordered

by (3)

on the day of, 19

(3) Here
insert the
name of
the public
authority
ordering
the
change,
and the
date
thereof

(4)

NOTE.-If the above statement be made, and a certificate of the alteration given by the named authority be supplied, the Registrar, if satisfied as to the facts of the case, will not require the payment of a fee with Form T.M. No. 19. (*See* regulation 81.)

(4)
Signature
of the
registered
proprietor
or user, as
the case
may be

REPUBLIC OF ZAMBIA
FORM T.M. NO. 20
Section 28 (5)
Regulation 61

THE TRADE MARKS ACT
Fee unit: 1

APPLICATION TO THE REGISTRAR UNDER SECTION 28 (5) TO DISSOLVE THE
ASSOCIATION BETWEEN A REGISTERED TRADE MARK AND (AN)OTHER
REGISTERED TRADE MARK(S)

(To be accompanied by a Statement of Case)

IN THE MATTER OF a trade mark No registered
in Class
I/We

being the registered proprietor(s) of the above-numbered trade mark, hereby apply that the
association of this trade mark with the following trade marks registered in my/our name:

No registered in Class

No registered in Class

may be dissolved and the register amended accordingly.

The grounds for this application are set forth in the accompanying statement of case.

Dated this day of, 19,

	(1)	(1)
The Registrar,		Signature
The Trade Marks Office,		
Lusaka,		
Zambia.		

REPUBLIC OF ZAMBIA
FORM T.M. NO. 21
Section 39
Regulations 85 and 102

THE TRADE MARKS ACT
Fee: 17, 17 (*a*) or 17 (*b*)

REQUEST FOR CORRECTION OF CLERICAL ERROR; OR FOR
PERMISSION TO AMEND APPLICATION

IN THE MATTER OF (1)

I/We, being the

hereby request that

(1) Here
insert
words and
reference
number
identifying
the entry
or
application

Dated this day of, 19,

(2)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(2)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 22
Section 39
Regulations 85 and 102

THE TRADE MARKS ACT
Fee:10

REQUEST TO ENTER CHANGE OF NAME OR DESCRIPTION OF REGISTERED
PROPRIETOR (OR REGISTERED USER) OF TRADE MARK UPON THE REGISTER

I/We (1)

hereby request that my/our name(s) and description(s) may be entered in the

register of trade marks as (2) proprietor(s)/registered user(s) of the trade mark(s)

No * registered in Class

I am/we are entitled to (2) the said trade mark/use the said trade mark as registered user(s).

There has been no change in the (2) actual proprietorship/identity of the registered

user(s) of the said trade mark, but (3)

(1) Here
state
present
name,
address
and
description
of
registered
proprietor
or
registered
user

(2) Strike
out the
words that
are not
applicable

*Additional
numbers
may be
given on a
signed
schedule on
the back of
the form

(3) Here state
the
circumstances

The entry at present standing in the register gives my/our name(s) and description(s) as follows

under which
the change of
name took
place

Dated this day of, 19,

(4)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(4)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 23

Section 39 (1)
Regulations 85 and 86

THE TRADE MARKS ACT
Fee unit: 1

APPLICATION BY REGISTERED PROPRIETOR OF TRADE MARK FOR THE
CANCELLATION OF ENTRY THEREOF IN REGISTER

IN THE MATTER OF trade mark No
Class
Name of registered proprietor

Trade or business address
Description
Application is hereby made by

of (1) (or by
a member of the firm of
of (1)
on behalf of my said firm)

that the entry in the register of trade marks of the trade mark No.
in Class may be cancelled.
Dated this day of, 19,

(1) Here
insert the
trade or
business
address and
description
of the
applicant(s)
or his/their
firm

(2)
The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(2)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 24

Section 39 (1)
Regulations 85 and 86

THE TRADE MARKS ACT

Fee:K1

APPLICATION BY REGISTERED PROPRIETOR OF TRADE MARK TO THE
REGISTRAR
TO STRIKE OUT GOODS FROM THOSE FOR WHICH THE TRADE MARK IS
REGISTERED

IN THE MATTER OF trade mark No. registered
in Class

Name of registered proprietor

Trade or business address

Description

Application is hereby made by

of (1) (or by
a member of the firm of
of (1)
on behalf of my said firm)

(1) Here
insert the
trade or
business
address and
description
of the
applicant(s)
or his/their
firm

for the striking out of (2)
from the goods for which the trade mark No
is registered in Class
Dated this day of, 19,

(2) Here
designate
the goods
to be
struck out

(3)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(3)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 25
Section 39 (1)
Regulations 85, 86 and 87

THE TRADE MARKS ACT
Fee units: 4

REQUEST BY A REGISTERED PROPRIETOR OF A TRADE MARK THAT A
DISCLAIMER OR MEMORANDUM RELATING THERETO MAY BE REGISTERED

Request is hereby made by (1)
of
for the addition to the entry in the register in connection with trade mark
No. in Class of the following
 namely:

Dated this day of, 19,
(2)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(1) Here
insert the
name,
trade or
business
address
and
description
of the
registered
pro(2)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 26
Section 40
Regulations 89 to 92

THE TRADE MARKS ACT
Fee: 12 or 12 (a)

APPLICATION BY REGISTERED PROPRIETOR UNDER SECTION 40 FOR AN ADDITION TO OR ALTERATION OF A REGISTERED TRADE MARK

IN THE MATTER OF the trade mark No. in
Class

Application is hereby made by (1)
of
being the registered proprietor(s) of the registered trade mark numbered as above, that the

(1) Here
insert
name,
trade or
business
address
and
description

Registrar shall add to it or alter it in the following particulars, that is to say- (2)

(2) Here
fill in full
particulars

Six copies of the mark as it will appear when so altered are filed herewith.
Dated this day of, 19,

(3)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(3)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 27
Section 31, 32, 37 or 38
Regulation 82

THE TRADE MARKS ACT
Fee unit: 1

APPLICATION TO THE REGISTRAR FOR THE RECTIFICATION OF THE
REGISTER OR THE REMOVAL OF A TRADE MARK FROM THE REGISTER

(To be lodged in duplicate and accompanied by a statement of case in duplicate)

IN THE MATTER OF the trade mark No. registered

in the name of

in Class

I/We (1)

(1) Here
state full
name and
address

hereby apply that the entry in the register in respect of the above-mentioned trade mark

may be removed (2) rectified in the following manner

(2) Strike
out the
word(s)
that is/are
not
applicable

The grounds of my/our application are as follows:

No action concerning the trade mark in question is pending in the Tribunal or the High
Court.

Dated this day of, 19,

(3)

(3)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 28
Section 31, 32, 37 or 38
Regulation 84

THE TRADE MARKS ACT
Fee unit: 1

APPLICATION TO THE REGISTRAR FOR LEAVE TO INTERVENE IN
PROCEEDINGS RELATING TO THE RECTIFICATION OF THE REGISTER OR
THE REMOVAL OF A TRADE MARK FROM THE REGISTER

IN THE MATTER OF trade mark No. registered
in the name of
in Class

I/We (1)

(1) Here
state full
name and
address

hereby apply for leave to intervene in the proceedings relating to the rectification or
removal of the entry in the register in respect of the above-mentioned trade mark.

My/Our interest in the trade mark is

Dated this day of, 19,

(2)

(2)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 29
Section 43
Regulations 20 and 113

THE TRADE MARKS ACT
Fee units: 3

1. REQUEST FOR SEARCH

The Registrar is hereby requested under regulation 113 to search in Class*

* The Registrar's direction should be obtained if the class is not known

in respect of (1)
to ascertain whether any trade marks are on record which resemble the trade mark sent herewith in duplicate (each representation being mounted on a half-sheet of foolscap).
Dated this day of, 19,

(1) Here specify the goods (in the class stated) in respect of which the search is to be made

(2)

(2)
Signature

(3)

(3)
Address

**2. REQUEST FOR REGISTRAR'S PRELIMINARY ADVICE AS TO
DISTINCTIVENESS
OR CAPABILITY OF DISTINGUISHING, BY A PERSON PROPOSING TO APPLY
FOR THE REGISTRATION OF A TRADE MARK**

I/We (4)

(4) Here state name and address in

full

hereby request the Registrar to advise me/us whether the trade mark referred to above appears to him *prima facie* to be inherently adapted to distinguish or inherently capable of distinguishing my/our goods above mentioned so as to comply with the requirements of section 14 or 15 respectively of the Act for registrability in Part A or Part B of the register.

Dated this day of, 19,

(5)

(5)
Signature

My/Our address for service in Zambia:

NOTE-Request 1 MUST be completed. The fee on the form is K2 if request 2 is not completed, or K3 if both requests are completed.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 30
Section 43
Regulation 20

THE TRADE MARKS ACT
Fee unit: 1

REQUEST FOR REGISTRAR'S PRELIMINARY ADVICE AS TO DISTINCTIVENESS
OR
CAPABILITY OF DISTINGUISHING, BY A PERSON PROPOSING TO APPLY FOR
THE REGISTRATION OF A TRADE MARK

I/We (1)

(1) Here
state name
and
address in
full

hereby request the Registrar to advise me/us whether the trade mark shown on the
accompanying foolscap sheet* appears to him *prima facie* to be inherently adapted to
distinguish or inherently capable of distinguishing my/our goods so as to comply with the
requirements of section 14 or 15, respectively of the Act for registrability in Part A or Part
B of the register.

*To be
sent in
duplicate

The goods in respect of which I/we propose to apply for registration of the said trade

mark are (2)

(2) Here
specify the
goods.
Only
goods
included in
one and
the same
class
should be
specified.
A separate
form of
request is
required
for each
class

in Class (3)
Dated this day of, 19,

(3) Here
insert the
number of
the class
(if known).
In case of
doubt, the
Registrar's
direction
may be
obtained

(4)

(4)
Signature

My/Our address for service in Zambia:

NOTE.-If and when an application is made to register the trade mark, objection may arise if identical or resembling trade marks are found on the register. A prior notification of any such relevant marks (if any are to be found) can be obtained by a request to the Registrar made on Form T.M. No. 29.

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBI

FORM T.M. NO. 31

Section 51

Regulation 115

THE TRADE MARKS ACT

Fee: Nil

NOTICE TO REGISTRAR THAT NOTICE OF APPEAL HAS BEEN FILED
WITH REGISTRAR OF TRIBUNAL

I/We (1)

(1) Here
state full
name and
address

hereby give you notice that I/we have this day filed with the registrar of the Tribunal a
notice of appeal, a copy of which is attached hereto, together with a copy of my/our grounds
of appeal.

Dated this day of, 19,

(2)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(2)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 32
Section 45
Regulation 111

THE TRADE MARKS ACT
Fee unit: 1

REQUEST FOR GENERAL CERTIFICATE OF THE REGISTRAR (INCLUDING
CERTIFICATE OF REGISTRATION OF A TRADE MARK)

IN THE MATTER OF* the trade mark No. registered

in Class *

I/We

of

*These
words may
be varied
to suit
other cases

hereby request the Registrar to furnish me/us with (2) his certificates that (1)

(1) Here
set out the
particulars
which the
Registrar
is
requested
to certify

(2) a certificate of registration of the trade mark (2) for use in obtaining registration abroad.
Dated this day of, 19,

(2) Strike
out words
that are not
applicable

(3)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(3)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 33
Section 32
Regulation 21 and 37

THE TRADE MARKS ACT
Fee unit: 18

APPLICATION UNDER SECTION 32 FOR REGISTRATION OF AN INVENTED
WORD
(OR WORDS) IN PART D OF THE REGISTER AS A DEFENSIVE TRADE MARK

One representation to be fixed within this space, and six others to be
pinned on to and sent with Form T.M. No. 3.

Application is hereby made for registration in Part D of the register of the above mark
as a defensive trade mark in Class

in respect of (1)

(1) Here
specify the
goods. Only
goods
included in
one and the
same class
should be
specified

in the name of (2)

(2) Here
insert legibly
the full
name,
description
and
nationality of
the
individual,
firm or body

	<p>corporate making the application. The names of all partners in a firm must be given in full. If the applicant is a body corporate, the kind and country of incorporation should be stated</p>
of (3)	<p>(3) Here insert the full trade or business address of the applicant</p>
trading as (4)	<p>(4) Here insert the trading style (if any)</p>
<p>who is/are the proprietor(s) of the same trade mark registered in Class (5)</p> <p>in respect of</p> <p>under No.</p>	<p>(5) Here insert particulars of the applicant's registration of the trade mark</p>
<p>The particulars of the facts on which I/we rely in support of this application are set forth in the accompanying statement of case (6).</p> <p>Dated this day of, 19,</p>	<p>(6) To be furnished in duplicate</p>
(7)	<p>(7) Signature</p>

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia

REPUBLIC OF ZAMBIA
FORM T.M. NO. 34
Section 42
Regulation 40

THE TRADE MARKS ACT

REGULATIONS FOR GOVERNING THE USE OF CERTIFICATION TRADE MARK

No.

in Class in respect of (1)

(1) Here
specify the
goods of
the
registration

(For Official Use)

Advertised in *Trade Marks Journal* No.

at page on the day of

(Date of application and registration , 19)

REPUBLIC OF ZAMBIA
FORM T.M. NO. 35
Section 42
Regulation 94

THE TRADE MARKS ACT
Fee: 19 (*a*)

**REQUEST FOR THE CONSENT OF THE REGISTRAR TO ALTERATION OF THE
DEPOSITED REGULATIONS FOR USE OF A CERTIFICATE TRADE MARK**

Application is hereby made by (1)

(1) Here
state name
and address
of the
proprietor(s)
as registered

who is/are the proprietor(s) of the certification trade mark(s) No. (2)

*

(2) If the
same
regulations
apply to
more than
one
registration,
the numbers
of all the
registrations
should be
stated

registered in Class * in respect of (3)

(3) Here state
the
specifications
of the
respective
registrations

that the deposited regulations for governing the use of the mark may be altered in the
manner shown in red in the accompanying copies (4) of the regulations as proposed to be
altered, and for the consent of the Registrar to such alteration.
Dated this day of, 19,

(4) Three
copies
should be
furnished

(5)

(5)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia

Signature

*Additional numbers and specifications may be given in a signed schedule on the back of the form.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 36
Section 42
Regulation 93

THE TRADE MARKS ACT
Fee units: 3

APPLICATION TO THE REGISTRAR FOR AN ORDER EXPUNGING OR VARYING
AN
ENTRY IN THE REGISTER RELATING TO A CERTIFICATION TRADE MARK OR
VARYING THE DEPOSITED REGULATIONS

(To be lodged in duplicate together with a statement of case in duplicate)

IN THE MATTER OF certification trade mark No
registered in the name of
in Class

I/We (1)

(1) Here
state full
name and
address

being an aggrieved person(s), hereby apply for an order of the Registrar that:

1. (2) The entry in the register in respect of the above-mentioned trade mark may be
expunged/varied in the following manner

(2) Strike
out either
paragraph
that is not
applicable

2. (2) The deposited regulations governing the use of the above-mentioned trade mark
may be varied in the following manner

The grounds of my/our application are as follows:

Dated this day of, 19,

My/Our address for service in Zambia: (3)

(3)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 37
Section 42
Regulation 58

THE TRADE MARKS ACT
Fee units: 9

NOTICE TO THE REGISTRAR, UNDER PARAGRAPH 2 OF THE SCHEDULE TO
THE ACT, OF OPPOSITION TO AN APPLICATION FOR REGISTRATION OF A
CERTIFICATION TRADE MARK

(To be lodged in duplicate)

IN THE MATTER OF an application No
by
of

$$I/W_e \quad (1)$$

(1) Here
state full
name and
address

hereby give notice of my/our intention to oppose the registration of the certification trade mark advertised under the above number for Class

in the *Trade Marks Journal* of the day of

, 19, No page

The grounds of opposition are as follows: (2)

(2) The grounds should be limited to matters referred to in sub-paragraph (5) of paragraph 1 of the Schedule to the Act

Dated this day of, 19,

My/Our address for service in Zambia:

(3)

(3)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 38
Section 42
Regulation 58

THE TRADE MARKS ACT
Fee units: 6

FORM OF COUNTER-STATEMENT IN REPLY TO THE NOTICE TO THE
REGISTRAR,
UNDER PARAGRAPH 2 OF THE SCHEDULE TO THE ACT, OF OPPOSITION TO
AN
APPLICATION FOR REGISTRATION OF A CERTIFICATION TRADE MARK

(To be lodged in duplicate)

IN THE MATTER OF an opposition, No , to
application for registration of a certification trade mark No

I/We

the applicant(s) for registration of the above-numbered certification trade mark, hereby
give notice that the following are the grounds on which I/we rely as supporting my/our
application:

I/We admit the following allegations in the notice of opposition:

Dated this day of, 19,

(1)

(1)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 39
Section 42
Regulation 58

THE TRADE MARKS ACT
Fee units: 6

HEARING BY THE REGISTRAR OF AN OPPOSITION, UNDER PARAGRAPH 2 OF
THE
SCHEDULE TO THE ACT, TO AN APPLICATION FOR REGISTRATION OF A
CERTIFICATION TRADE MARK

Notice of Attendance at Hearing

I/We (1)
of

(1) Here
state name
and
address

hereby give notice that the hearing by the Registrar of the arguments in the case of
opposition No to application No
for the registration of a certification trade mark, which, by the Registrar's notice to me/us
dated the day of, 19,
is fixed for a.m. or p.m. at the Trade Marks Office on
the day of, 19, will be
attended by me/us or by some person on my/our behalf.
Dated this day of, 19,

(2)

(2)
Signature

My/Our address for service in Zambia:

The Registrar,

The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 40
Section 27 (5)
Regulation 79

THE TRADE MARKS ACT
Fee units: 6

APPLICATION FOR THE CERTIFICATE OF THE REGISTRAR UNDER SECTION 27
(5)
WITH REFERENCE TO A PROPOSED ASSIGNMENT OF A REGISTERED TRADE
MARK

(To be accompanied by a statement of case in duplicate and a copy of the proposed
assignment.)

IN THE MATTER OF trade mark(s) No.(s)
registered in the name of
in Class(es)

Application is hereby made by (1)

of
being the registered proprietor(s) of the above-numbered registered trade mark(s), for the
Registrar's certificate under section 27 (5) with reference to a proposed assignment of the

registered trade mark(s) No.(s) to (2)

of

in circumstances that are stated fully in the accompanying statement of case.

Dated this day of, 19

(1) Here
insert the
name and
trade or
business
address of
the
registered
proprietor

(2) Here
insert the
name and
trade or
business
address of
the
proposed
assignee

(3)

(3)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 41

Section 27 (6)
Regulation 79

THE TRADE MARKS ACT
Fee units: 6

APPLICATION FOR THE APPROVAL BY THE REGISTRAR UNDER SECTION 27
(6)
OF A PROPOSED ASSIGNMENT, OR OF A TRANSMISSION (ON OR AFTER THE
COMMENCEMENT OF THE ACT), OF A TRADE MARK RESULTING IN
EXCLUSIVE
RIGHTS IN DIFFERENT PERSONS FOR DIFFERENT PARTS OF ZAMBIA

(To be accompanied by a statement of case in duplicate and a copy of the instrument
proposed for the assignment or effecting the transmission)

IN THE MATTER OF a trade mark(s) *registered No.(s)
in Class(es) *, the property of

* To be
struck out in
the case of
unregistered
trade marks

I. Application is hereby made by (1)

of

(1) Insert
here the
name and
trade or
business
address of
the
proprietor

the proprietor of the trade mark(s) shown in the accompanying statement of case (2)
(registered in his name) and (2) (used by him) in respect of the following goods
for the approval by the Registrar of a proposed

(2) Strike
out either
if not
applicable

assignment of the trade mark(s) to (3)
of

(3) Insert
here the
names and
trade or
business

in respect of the following goods

addresses
of the
proposed
assignee(s)

to be sold or otherwise traded in in (4)

***[and to (3)

of

in respect of the following goods

to be sold or otherwise traded in in (4)]

in circumstances that are stated fully in the accompanying statement of case.

(4) Insert
the name
of the
place or
places in
Zambia
*** Strike
out the
bracketed
passage if
not
required

II. (5)

of

who claims that the trade mark(s) shown in the accompanying statement of case was/were,
in respect of the following goods, namely

(5) Insert
here the
name and
trade or
business
address of
the person
who

and on the (6) day of, 19

(6) Insert here
the date of the
transmission,
which must not
precede the
commencement
the Act

transmitted to (7) him [to (8)

of

(who was his predecessor in title)]

(7) Strike
out the
words that
are not
applicable
(8) Insert
here the
name and
trade or

by or from (9)

of

by whom the trade mark was then used in respect of the following goods, namely

all in circumstances that are stated fully in the accompanying statement of case, for the approval by the Registrar of the aforesaid transmission.

Dated this day of, 19,

(10)

Assignee's address for service in Zambia:

business
address of
the
predecessor
in title, if
any

(9) Insert
here the
name and
trade or
business
address of
the person
who
transmitted

(10)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 42
Section 27 (7)
Regulation 80

THE TRADE MARKS ACT
Fee: 8 (b)

APPLICATION TO THE REGISTRAR UNDER SECTION 27 (7) FOR DIRECTIONS
FOR
THE ADVERTISEMENT OF AN ASSIGNMENT OF TRADE MARKS OTHERWISE
THAN
IN CONNECTION WITH THE GOODWILL OF THE BUSINESS

(1) Here
insert the
name and
trade or
business
address of
the
assignee
(applicant)

(To be lodged in duplicate)

Application is hereby made by (1)

of

for the Registrar's directions with respect to the advertisement of assignment to him/them of
the following trade marks otherwise than in connection with the goodwill of the
business in which they were used at the time of assignment, namely

I. Registered Trade Marks:

**Registration Number*
mark

Class

Goods in respect of which the
has been used and is

assigned

all of which are or were registered in the name of (2)

of

(2) Here
insert the
name and
trade or
business

who is the assignor;

address of
the
proprietor
(assignor)

II. Unregistered trade marks (3), all being marks used in his business at the time of the assignment in respect of the goods stated below, by (2)

(3) Only those unregistered trade marks passing by the one assignment and used in the same business and for the same goods as those for which one or more of the registered marks are registered may be stated here

of
who is the assignor:

**Representation of mark
the mark*

*Goods in respect of which
has been used and is*

assigned

The date of assignment was the day of
, 19

The instrument effecting the assignment is sent herewith, together with a copy thereof.

It is suggested that advertisement shall be directed as follows, namely, in

Dated this day of, 19

(4)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(4)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 43
Section 27 (7)
Regulation 80

THE TRADE MARKS ACT
Fee: 8 (c)

APPLICATION FOR EXTENSION OF TIME IN WHICH TO APPLY FOR THE
REGISTRAR'S DIRECTIONS FOR THE ADVERTISEMENT OF AN ASSIGNMENT
OF
TRADE MARKS OTHERWISE THAN IN CONNECTION WITH THE GOODWILL OF
THE BUSINESS

Application is hereby made by (1)

of

(1) Here
insert the
name and
trade or
business
address of
the
assignee
(applicant)

for extension of time of (2) month(s) in which to apply
for the Registrar's directions for the advertisement of an assignment to him/them of the
following trade marks otherwise than in connection with the goodwill of the business in
which they were used at the time of assignment, namely:

(2) Here
insert
"one" or
"two" or
"three"

I. Registered Trade Marks:

<i>*Registration Number</i>	<i>Class</i>	<i>Goods in respect of which the</i>
<i>mark</i>		<i>has been used and is</i>
<i>assigned</i>		

all of which are or were registered in the name of (3)

of
who is the assignor;

(3) Here
insert the
name and
trade or
business
address of
the
proprietor
(assignor)

II. Unregistered trade marks, all being marks used in his business at the time of

assignment and in respect of the goods stated below, by (3)

of
who is the assignor:

**Registration Number
mark*

*Goods in respect of which the
has been used and is*

assigned

The date of assignment was the day of, 19

Dated this day of, 19

(4)

(4)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 44
Sections 23 and 40
Regulation 42 and 45

THE TRADE MARKS ACT

GENERAL FORM OF ADVERTISEMENT

Notice is hereby given that in terms of

Dated this day of, 19,

REPUBLIC OF ZAMBIA

FORM T.M. NO. 45

Section 41

Regulation 6

THE TRADE MARKS ACT

RECLASSIFICATION

APPLICATION TO THE REGISTRAR BY THE PROPRIETOR OF A REGISTERED
TRADE MARK FOR THE CONVERSION OF THE SPECIFICATION FROM THE
THIRD
SCHEDULE TO THE FOURTH SCHEDULE OF THE TRADE MARKS
REGULATIONS

IN THE MATTER OF a trade mark No. registered

in the name of

in Class of the Third Schedule.

Application is hereby made by (1)

the registered proprietor of the above-numbered trade mark, for the conversion of the
specification of the above-mentioned registration (2) and the **specification(s) of the
registered user(s) thereunder** from the Third Schedule to the Fourth Schedule of the
Trade Marks Regulations.

The specification(s) entered in the register in accordance with the Third Schedule is/are:

Application is made that the Registrar should propose the following specification(s) in
accordance with the Fourth Schedule upon conversion:

Class

Class

Dated this day of, 19,

(3)

The Registrar,
The Trade Marks Office,

(1) Here
insert the
name and
trade or
business
address of
the
registered
proprietor
(applicant)
(2) Cancel
the words
underlined
if there are
no
registered
users

(3)
Signature

Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 46
Section 41 (3)
Regulation 7

THE TRADE MARKS ACT

RECLASSIFICATION

NOTICE OF OPPOSITION TO PROPOSAL FOR CONVERSION OF SPECIFICATION

(To be lodged in duplicate together with a statement, in duplicate, showing how the proposed conversion would be contrary to section 41 (2))

IN THE MATTER OF the *trade mark(s) No.(s)

registered in the name of

in Class of the Third Schedule of the Regulations.

I/We (1)

(1) Here
state full
name and
address

hereby give notice of my/our intention to oppose the proposal for the conversion of the specification(s) of the trade mark(s), advertised in the *Trade Marks Journal*

of the day of, 19

No. page

The grounds of opposition are as follows:

Dated this day of, 19,

(2)

(2)
Signature

My/Our address for service in Zambia:

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

*The numbers of more than one trade mark dealt with by the same proposal may be given provided the specifications are the same.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 47
Section 40
Regulation 90

THE TRADE MARKS ACT
Fee Units: 2

NOTICE OF OPPOSITION TO APPLICATION UNDER SECTION 40 FOR ADDITION
TO
OR ALTERATION OF A REGISTERED TRADE MARK

(To be lodged in duplicate)

IN THE MATTER OF the trade mark No. _____
 registered in the name of _____
 in Class _____

$$I/W_e(1)$$

(1) Here
state full
name and
address

hereby give notice of my/our intention to oppose the addition to or alteration of the trade mark numbered and registered as above, so that it shall be in the form shown in the application advertised in the *Trade Marks Journal* of the day of
 , 19, No. page

The grounds of opposition are as follows:

Dated this day of, 19,

(2)

My/Our address for service in Zambia:

(2)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 48
Sections 51 and 59
Regulation 117

THE TRADE MARKS ACT
Fee Units: 6

NOTICE OF ORDER OF HIGH COURT OR TRIBUNAL FOR ALTERATION OR
RECTIFICATION OF REGISTER OF TRADE MARKS

IN THE MATTER OF the trade mark No

registered in Class in the name

of

Notice is hereby given to the Registrar that, by an order of the High Court/Tribunal

made on the day of

, 19 it was directed that

A certified copy of the order of the High Court/Tribunal is enclosed herewith.

Dated this day of, 19

(1)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(1) To be
signed by
the perso
interested
or his
agent

REPUBLIC OF ZAMBIA
FORM T.M. NO. 49
Section 58
Regulation 88

THE TRADE MARKS ACT

Fee: 7

REQUEST TO THE REGISTRAR FOR ENTRY IN THE REGISTER AND
ADVERTISEMENT OF A NOTE OF A CERTIFICATE OF VALIDITY BY THE
HIGH COURT OR TRIBUNAL

IN THE MATTER OF trade mark(s) No.(s)

registered in Class in the name of

I/We (1)

hereby request the Registrar to add to the above-numbered entry/entries of a trade mark in

(1) Here
state the
name and
address of
the
registered
proprietor

the register, and to advertise in the *Trade Marks Journal* a note that in (2)

the High Court/Tribunal certified that the validity of the said registration(s) came into
question and was decided in favour of the proprietor of the trade mark in the terms of the
accompanying certificate of validity.

(2) Here
state the
nature of the
proceedings,
with the
names of the
parties to
them, in
which the
certificate
was given

Dated this day of, 19,

(3)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(3)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 50

Section 33 (4)
Regulation 96

THE TRADE MARKS ACT
Fee: 6 or 6 (a)

APPLICATION FOR REGISTRATION USER

(To be accompanied by a statement of case giving particulars and stating as required by section 33 (4), verified by an affidavit or solemn declaration made by the proprietor, or by some person authorised to act on his behalf and approved by the Registrar.)

Application is hereby made by (1)

(1) Here
insert full
name, trade
or business
address and
description
of the
registered
proprietor(s)

who is/are the registered proprietor(s) of trade mark(s) No.(s)*

*
Additional
numbers
may be
given in a
signed
schedule
on the
back of the
form

registered in Class in respect of (2)

(2) Here
insert the
specification
in the
register

that (3)

(3) Here insert the full name, description and nationality of the individually, firm or body corporate, proposed as registered user. The names of all partners in a firm must be given in full. In the case of a body corporate, brief particulars of the kind and country of incorporation should be stated

of (4)

(4) Here insert the full trade or business address of the proposed registered user

trading as (5)

(5) Here insert trading style (if any)

who hereby joins in the application, may be registered as a registered user of the above-

(6) Here insert

numbered registered trade mark(s) in respect of (6)

designation
of goods
(which must
be comprised
within the
specification)

subject to the following conditions or restrictions:

(7)

(7) Write
None if
there are
no
conditions
or
restrictions

(8) The proposed permitted use is to end on the day
of , 19/The proposed permitted use is
without limit of period.
Dated this day of, 19,

(8) Strike
out the
words that
are not
applicable

(9)
My/Our address for service in Zambia:

(9)
Signature

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 51
Section 33 (8) (a)
Regulation 98

THE TRADE MARKS ACT
Fee: 6 (b) or 6 (c)

APPLICATION BY THE REGISTERED PROPRIETOR OF A TRADE MARK FOR
VARIATION OF THE REGISTRATION OF A REGISTERED USER THEREOF WITH
REGARD TO THE GOODS OR THE CONDITIONS OR RESTRICTIONS

(To be accompanied by a statement of the grounds for the application and the written
consent (if given) of the registered user)

Application is hereby made by (1)

(1) Here
insert the
full name,
description
and trade
or business
address of
the
registered
proprietor

the proprietor of trade mark(s) No.(s)*

*
Additional
numbers
may be
given in a
signed
schedule
on the
back of the
form

registered in Class in respect of (2)

(2) Here
insert the
specification
in the
register

that the registration of (3)

(3) Here
insert full
name,
description
and trade
or business
address of
the
registered
user

as a registered user of the above-numbered trade mark(s) in respect of (4)

(4) Here
insert the
goods in
respect of
which the
user is
registered

may be varied in the following manner: (5)

(5) Here
state in
terms the
manner in
which it is
requested
that the
entry
should be
varied

Dated this day of, 19,

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

(6)

(6)
Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 52
Section 33 (8) (b)
Regulation 99

THE TRADE MARKS ACT
Fee: 6 (*d*) or 6 (*e*)

APPLICATION BY THE REGISTERED PROPRIETOR OF A TRADE MARK OR BY
ANY
OF THE REGISTERED USERS OF THE TRADE MARK FOR THE CANCELLATION
OF
ENTRY OF A REGISTERED USER THEREOF

(To be accompanied by a statement of the grounds for the application)

Application is hereby made by (1)

(1) Here
insert the
full name,
description
and trade or
business
address of
the
applicant(s)

being (2) the registered proprietor/registered user of trade mark(s) No.(s)*

(2) Strike
out words
that are not
applicable
*

Additional
numbers
may be
given in a
signed
schedule
on the
back of the
form

registered in Class in respect of (3)

(3) Here
insert the

specification
in the
register

for cancellation of the entry under the above-mentioned registration(s) of (4)

(4) Here
insert the
full name,
description
and trade
or business
address of
the
registered
user whose
entry is
sought to
be
cancelled

as a registered user of the trade mark(s) in respect of (5)

(5) Here
insert
goods in
respect of
which that
registered
user is
entered

The grounds for this application are set forth in the accompanying statement.

Dated this day of, 19,

(6)

(6)
Signature(s)

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

REPUBLIC OF ZAMBIA
FORM T.M. NO. 53

Section 33 (8) (c)
Regulation 100

THE TRADE MARKS ACT
Fee: 6 (f) or 6 (g)

**APPLICATION FOR CANCELLATION OF ENTRY OF A REGISTERED USER OF A
TRADE MARK**

(To be accompanied by a statement of the grounds for the application)

IN THE MATTER OF trade mark(s) No.(s) *

registered in Class in the name of (1)

Application is hereby made by (2)

for the cancellation of the entry under the above-mentioned registration(s) of (3)

as the registered user in respect of (4)

The grounds of this application, particulars of which are given in detail in the
accompanying statement of case, are (5)

Dated this day of, 19,

(6)

My/Our address for service in Zambia:

*Additional numbers may be given in a signed schedule on the back of the form
(1) Here insert the name, trade or business address and description of the registered proprietor as entered in the register
(2) Here insert the name and address of the applicant for cancellation
(3) Here insert the name, trade or business address and description of the registered user as entered in the register
(4) Here insert

The Registrar,
The Trade Marks Office,
Lusaka,
Zambia.

the goods in
respect of
which the
registered
user is entered
(5) Here insert
one or more of
the
subparagraphs
of paragraph
(c) of section
33 (8)
numbered (i),
(ii), (iii)
(6) Signature

REPUBLIC OF ZAMBIA
FORM T.M. NO. 54

Section 33 (9)
Regulation 101

THE TRADE MARKS ACT

Fee units: 8

NOTICE TO THE REGISTRAR UNDER SECTION 33 (9) OF INTENTION TO
INTERVENE IN PROCEEDINGS FOR THE VARIATION OR CANCELLATION OF
AN ENTRY OF A REGISTERED USER OF A TRADE MARK

(1) Insert
here the
name of
the
registered
proprietor

(To be accompanied by a statement of the grounds for intervention)

IN THE MATTER OF a trade mark No registered

in Class in the name of (1)

and

IN THE MATTER OF a registration of (2)

thereunder as a registered user of the mark.

In reply to the Registrar's notification, dated the day

of , 19, notice is hereby given of my
intention to intervene in the proceedings in the above matter.

Dated this day of, 19,

(3)

(2) Insert
here the
name and
trade or
business
address of
the
registered
user

My address for service in Zambia:

(3)
Signature

The Registrar,

The Trade Marks Office,
Lusaka, Zambia.

THIRD SCHEDULE

(Regulation 5)

CLASSIFICATION OF GOODS

Class 1

Chemical substances used in manufacturers, photography, or philosophical research, and anti-corrosives.

Class 2

Chemical substances used for agricultural, horticultural, veterinary, and sanitary purposes.

Class 3

Chemical substances prepared for use in medicine and pharmacy.

Class 4

Raw, or partly prepared, vegetable, animal, and mineral substances used in manufactures, not included in other Classes.

Class 5

Unwrought and partly wrought metals used in manufacture.

Class 6

Machinery of all kinds, and parts of machinery, except, agricultural and horticultural machines and their parts included in Class 7.

Class 7

Agricultural and horticultural machinery, and parts of such machinery.

Class 8

Philosophical instruments, scientific instruments and apparatus for useful purposes; instruments and apparatus for teaching.

Class 9

Musical instruments.

Class 10

Horological instruments.

Class 11

Instruments, apparatus, and contrivances, not medicated, for surgical or curative purposes, or in relation to the health of men or animals.

Class 12

Cutlery and edge tools.

Class 13

Metal goods, not included in other Classes.

Class 14

Goods of precious metals and jewellery, and imitations of such goods and jewellery.

Class 15

Glass.

Class 16

Porcelain and earthenware.

Class 17

Manufacturing from mineral and other substances for building or decoration.

Class 18

Engineering, architectural, and building contrivances.

Class 19

Arms, ammunition, and stores not included in Class 20.

Class 20

Explosive substances.

Class 21

Naval architectural contrivances and naval equipments not included in other Classes.

Class 22

Carriages.

Class 23

(a) Cotton yarn.

(b) Sewing cotton.

Class 24

Cotton piece goods.

Class 25

Cotton goods not included in other Classes.

Class 26

Linen and hemp yarn and thread.

Class 27

Linen and hemp piece goods.

Class 28

Linen and hemp goods not included in other Classes.

Class 29

Jute yarns and tissues, and other articles made of jute, not included in other Classes.

Class 30

Silk, spun, thrown, or sewing.

Class 31

Silk piece goods.

Class 32

Silk goods not included in other Classes.

Class 33

Yarns of wool, worsted, or hair.

Class 34

Cloths and stuffs of wool, worsted, or hair.

Class 35

Woolen and worsted and hair goods, not included in other Classes.

Class 36

Carpets, floorcloth and oilcloth.

Class 37

Leather, skins unwrought and wrought, and articles made of leather not included in other Classes.

Class 38

Articles of clothing.

Class 39

Paper (except paper hangings), stationery and bookbinding.

Class 40

Goods manufactured from india-rubber and gutta-percha not included in other Classes.

Class 41

Furniture and upholstery.

Class 42

Substances used as food or as ingredients in food.

Class 43

Fermented liquors and spirits.

Class 44

Mineral and aerated waters, natural and artificial, including ginger beer.

Class 45

Tobacco, whether manufactured or unmanufactured.

Class 46

Seeds for agricultural and horticultural purposes.

Class 47

Candles, common soap, detergents; illuminating, heating, or lubricating oils; matches; and starch, blue and other preparations for laundry purposes.

Class 48

Perfumery (including toilet articles, preparations for the teeth and hair, and perfumed soap).

Class 49

Games of all kinds and sporting articles not included in other Classes.

Class 50

Miscellaneous:

- (1) Goods manufactured from ivory, bone or wood, not included in other Classes.
- (2) Goods manufactured from straw or grass, not included in other Classes.
- (3) Goods manufactured from animal and vegetable substances, not included in other Classes.
- (4) Tobacco pipes.
- (5) Umbrellas, walking-sticks, brushes and combs for the hair.
- (6) Furniture cream, place powder.
- (7) Tarpaulins, tents, tick-cloths, rope (jute or hemp), twine.
- (8) buttons of all kinds other than of precious metal or imitations thereof.
- (9) Packing and hose.
- (10) Other goods not included in the foregoing Classes.

FOURTH SCHEDULE

(Regulation 5)

CLASSIFICATION OF GOODS

NAMES OF THE CLASSES

[Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other Classes.]

1. Chemical products used in industry, science, photography, agriculture, horticulture, forestry; manures (natural and artificial); fire-extinguishing compositions, tempering substances and chemical preparations for soldering; chemical substances for preserving foodstuffs; tanning substances; adhesive substances used in industry.
2. Paints, varnishes, lacquers; preservatives, against rust and against deterioration of wood; colouring matters, dyestuffs; mordants; resins; metals in foil and power form for painters and decorators.
3. Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.
4. Industrial oils and greases (other than edible oils and fats and essential oils); lubricants; dust-laying and absorbing compositions; fuels (including motor spirit) and illuminants; candles, tapers, nightlights and wicks.
5. Pharmaceutical, veterinary and sanitary substances; infants' and invalids' foods; plasters, material for bandaging; material for stopping teeth, dental wax; disinfectants; preparations for killing weeds and destroying vermin.
6. Unwrought and partly wrought common metals and their alloys; anchors, anvils, bells, rolled and cast building materials; rails and other metallic materials for railway tracks; chains (except driving chains for vehicles); cables and wires (non-electric); locksmiths' work; metallic pipes and tubes; safes and cash boxes; steel balls; horseshoes; nails and screws; other goods in non-precious metal not included in other Classes; ores.
7. Machines and machine tools, motors (except for vehicles); machine couplings and belting (except for vehicles); large-size agricultural implements; incubators.
8. Hand tools and instruments; cutlery, forks and spoons; side arms.
9. Scientific, nautical, surveying and electrical apparatus and instruments (including wireless), photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; coin or counter-freed apparatus; talking machines; cash registers; calculating machines; fire-extinguishing apparatus.
10. Surgical, medical, dental and veterinary instruments and apparatus (including artificial

limbs, eyes and teeth).

11. Installations for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

12. Vehicles; apparatus for locomotion by land, air or water.

13. Firearms; ammunition and projectiles; explosive substances; fireworks.

14. Precious metals and their alloys and goods in precious metals or coated therewith (except cutlery, forks and spoons); jewellery, precious stones; horological and other chronometric instruments.

15. Musical instruments (other than talking machines and wireless apparatus).

16. Paper and paper articles, cardboard and cupboard articles; printed matter, newspaper and periodicals, books; bookbinding material; photographs; stationery, adhesive materials (stationery); artists' materials; paint brushes, typewriters and office requires (other than furniture); instructional and teaching material (other than apparatus); playing cards; (printers') type and clichés (stereotype).

17. Gutta-percha, india-rubber, balata and substitutes, articles made from these substances and not included in other Classes; materials for packing, stopping or insulating; asbestos, mica and their products; hose pipes (non-metallic); plastics in the form of sheets, blocks, rods and tubes, being for use in manufactures.

18. Leather and imitations of leather, and articles made from these materials, and not included in other Classes; skins, hides, trunks and travelling bags; umbrellas, parasols and walking-sticks; whips, harness and saddlery.

19. Building materials, natural and artificial, stone, cement, lime, mortar, plaster and gravel; pipes of earthenware or cement; road-making materials; asphalt, pitch and bitumen; portable buildings; stone monuments; chimney pots.

20. Furniture, mirrors, picture frames; articles (not included in other Classes) of wood, cork, reeds, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum, celluloid, and substitutes for all these materials.

21. Small domestic utensils and containers (not of precious metal, nor coated therewith); combs and sponges; brushes (other than paint brushes); brushmaking materials; instruments and material for cleaning purposes; steelwool, glassware, porcelain and earthenware not included in other Classes.

22. Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks, padding and stuffing materials (hair, kapok, feathers, seaweed, etc.); raw fibrous textile materials.

23. Yarns, threads.

24. Tissues (piece goods); bed and table covers; textile articles not included in other Classes.

25. Clothing, including boots, shoes and slippers.

26. Lace and embroidery, ribbons and braid; buttons, press buttons, hooks and eyes, pins and needles; artificial flowers.

27. Carpets, rugs, mats and matting; linoleums and other materials for covering floors, wall

hangings (non-textile).

28. Games and playthings; gymnastic and sporting articles (excepting clothing); ornaments and decorations for Christmas trees.

29. Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams; eggs, milk and other dairy products, edible oils and fats; preserves, pickles.

30. Coffee, tea, cocoa, sugar, rice, tapioca, sago, coffee substitutes; flour, and preparations made from cereals; bread, biscuits, cakes, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; pepper, vinegar, sauces; spices; ice.

31. Agricultural, horticultural and forestry products and grains not included in other Classes; living animals; fresh fruits and vegetables; seeds; live plants and flowers; foodstuffs for animals, malt.

32. Beer, ale and portar; mineral and aerated waters and other non-alcoholic drinks; syrups and other preparations for making beverages.

33. Wines, spirits and liqueurs.

34. Tobacco, raw or manufactured; smokers'articles; matches.

SECTION 33-THE TRADE MARKS (APPEALS) RULES

- 1.** These Rules may be cited as the Trade Marks (Appeals) Rules.
- 2.** Subject to any specific provisions of the Act, the High Court (Appeals) (General) Rules, 1984, shall apply to any appeal to the High Court brought pursuant to the provisions of the Act.
- 3.** Subject to any specific provisions of the Act, the Supreme Court Rules shall apply to any appeal to the Supreme Court brought pursuant to the provisions of the Act.