

WORLD TRADE ORGANIZATION

ORGANISATION MONDIALE DU COMMERCE

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/ZAF/T/2

18 April 1996

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**Council for Trade-Related Aspects
of Intellectual Property Rights**

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**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

South Africa

The present document reproduces Trade Mark Regulations, No. R578 of 21 April 1995¹, as notified by South Africa under Article 63.2 of the Agreement (see document IP/N/1/ZAF/1).

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A LA
PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

Afrique du Sud

Le présent document contient le texte du Règlement n° R578 du 21 avril 1995 relatif aux marques¹, notifié par l'Afrique du Sud au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/ZAF/1).

**Consejo de los Aspectos de los Derechos de Propiedad
Intelectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

Sudáfrica

En el presente documento se reproduce el Reglamento sobre Marcas de Fábrica o de Comercio N° R578, de 21 de abril de 1995¹, notificado por Sudáfrica de conformidad con el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/ZAF/1).

¹English only/anglais seulement/en inglés solamente.

REPUBLIC OF SOUTH AFRICA		REPUBLIEK VAN SUID-AFRIKA
<h1 style="margin: 0;">Government Gazette</h1> <h1 style="margin: 0;">Staatskoerant</h1>		
<i>Regulation Gazette</i>	No. 5493	<i>Regulasiekoerant</i>

Vol. 358

PRETORIA, 21 APRIL 1995

No. 16373

GOVERNMENT NOTICES**DEPARTMENT OF AGRICULTURE****No. R. 579** **21 April 1995**
 LIVESTOCK BRANDS ACT, 1962
(ACT No. 87 OF 1962)
COMPULSORY BRANDING OF CATTLE

I, Angela Thokozile Msane, Deputy Minister of Agriculture, acting under the powers vested in me by section 5A of the Livestock Brands Act, 1962 (Act No. 87 of 1962), hereby declare that the branding of cattle and small stock to be compulsory for the purpose of the said Act in the Magisterial District of Adelaide.

A. T. MSANE,
Deputy Minister of Agriculture.

GOEWERMENTSKENNISGEWINGS**DEPARTEMENT VAN LANDBOU****No. R. 579** **21 April 1995**
 WET OP VEEBRANDMERKE, 1962
(WET No. 87 VAN 1962)
VERPLIGTE BRANDMERK VAN VEE

Ek, Angela Thokozile Msane, Adjunkminister van Landbou, handelende kragtens die bevoegdheid aan my verleen by artikel 5A van die Wet op Veebrandmerke, 1962 (Wet No. 87 van 1962), verklaar hierby dat die brandmerk van beeste en kleinvee in die land-droëdistrik Adelaide ingevolge die bepalings van gemelde Wet verpligtend is.

A. T. MSANE,
Adjunkminister van Landbou.

DEPARTMENT OF TRADE AND INDUSTRY**No. R. 578** **21 April 1995**
 TRADE MARKS ACT, 1993
(ACT 194 OF 1993)
TRADE MARK REGULATIONS

The Minister of Trade and Industry has, in terms of section 69 of the Trade Marks Act, 1993 (Act 194 of 1993), made the regulations and prescribed the tariff set forth hereunder:

Definitions

1. In these regulations, unless the context otherwise indicates, any expression to which a meaning has been

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DEPARTEMENT VAN HANDEL EN NYWERHEID**No. R. 578** **21 April 1995**
 WET OP HANDELSMERKE, 1993
(WET 194 VAN 1993)
HANDELSMERKREGULASIES

Die Minister van Handel en Nywerheid het, ingevolge artikel 69 van die Wet op Handelsmerke, 1993 (Wet 194 van 1993), die regulasies uitgevaardig en die tarief voorgeskryf wat hieronder uiteengesit word:

Woordomskeywing

1. In hierdie regulasies, tensy dit uit die samehang anders blyk, het enige uitdrukking waaraan in die Wet

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assigned in the Trade Marks Act, 1993 (Act 194 of 1993), bears a meaning so assigned, and—

“the Act” means the Trade Marks Act, 1993 (Act 194 of 1993);

“*Patent Journal*” means the official journal of patents, designs, trade marks and copyright in cinematograph films of the Republic of South Africa;

“Office” means the Trade Marks Office referred to in section 5 of the Act;

“send” includes give;

“specification” means the designation of goods or services in respect of which a trade mark is registered or proposed to be registered.

Fees

[Sections 65 and 69 (1)]

2. (1) The fees to be paid in pursuance of the Act shall be the fees specified in Schedule 1 to these regulations.

(2) All such fees shall, subject to such conditions as the Registrar may impose, be payable by means of revenue stamps or in such other manner as the Registrar may direct.

(3) For the purposes of this regulation, the word “stamp” shall bear the meaning assigned to it by section 1 of the Stamp Duties Act, 1968 (Act No. 77 of 1968), as amended.

Forms

[Section 69 (2)]

3. (1) The forms referred to in these regulations are the forms contained in Schedule 2, and such forms shall be used in all cases to which they are applicable, but may be modified or amended to the extent necessary in the circumstances of a particular case.

(2) Any request, notification or application to the Registrar for which no specific form is prescribed in these regulations shall be made on Form TM2 quoting the section of the Act or the regulation or both in terms of which the request, notification or application is made.

Classification of goods and services

[Sections 11 and 69 (2)]

4. (1) For the purposes of trade mark, certification mark and collective mark applications made under the Act, goods and services are classified in accordance with Schedule 3 to these regulations.

(2) For the purposes of classifying goods and services in accordance with Schedule 3 to these regulations and of interpreting this Schedule, reference shall be had to the 6th Edition of the International Classification of Goods and Services for the purposes of the registration of marks under the Nice Agreement of 15 June 1957 (as revised) published by the World Intellectual Property Organisation in 1992, including the explanatory notes and lists of goods and services published therein.

op Handelsmerke, 1993 (Wet 194 van 1993), 'n betekenis geheg is, die betekenis wat aldus daaraan geheg is, en beteken—

“Kantoor” die Kantoor van Handelsmerke bedoel in artikel 5 van die Wet;

“*Patentjoernaal*” die amptelike joernaal van patente, modelle, handelsmerke en outeursreg in rolprentfilms van die Republiek van Suid-Afrika;

“spesifikasie” die benaming van goedere of dienste ten opsigte waarvan 'n handelsmerk geregistreer is of beoog word om geregistreer te word;

“stuur” ook gee;

“die Wet” die Wet op Handelsmerke, 1993 (Wet 194 van 1993).

Gelde

[Artikels 65 en 69 (1)]

2. (1) Die gelde wat ingevolge die Wet betaal moet word, is dié wat in Bylae 1 van hierdie regulasies voorgeskryf word.

(2) Alle sodanige gelde moet, behoudens sodanige voorwaardes as wat die Registrateur stel, by wyse van inkomteseëls betaal word of op die ander wyse wat die Registrateur gelas.

(3) Vir die toepassing van hierdie regulasie het die woord “seël” die betekenis daaraan geheg by artikel 1 van die Wet op Seëlregte, 1968 (Wet 77 van 1968).

Vorms

[Artikel 69 (2)]

3. (1) Die vorms bedoel in hierdie regulasies is die vorms vervat in Bylae 2, en sodanige vorms word gebruik in alle gevalle waarop hulle van toepassing is, maar hulle kan gewysig of verander word so ver dit nodig is in die omstandighede van 'n bepaalde geval.

(2) 'n Versoek, kennisgewing of aansoek aan die Registrateur waarvoor daar nie in hierdie regulasies 'n spesifieke vorm voorgeskryf word nie, word gedoen op Vorm TM2 met vermelding van die artikel van die Wet of die regulasie of albei waarkragtens die versoek, kennisgewing of aansoek gedoen word.

Klassifikasie van goedere en dienste

[Artikels 11 en 69 (2)]

4. (1) Vir die doeleindes van handelsmerk-, waarmerkingshandelsmerk- en versamelhandelsmerkaansoeke kragtens die Wet word goedere geklassifiseer ooreenkomstig Bylae 3 van hierdie regulasies.

(2) Vir die doeleindes van die klassifisering van goedere en dienste ooreenkomstig Bylae 3 van hierdie regulasies en die uitleg van hierdie Bylae moet die 6de uitgawe van die International Classification of Goods and Services geraadpleeg word vir die registrasie van merke ingevolge die Nice-Ooreenkoms van 15 Junie 1957 (soos hersien), in 1992 gepubliseer deur die World Intellectual Property Organisation, met inbegrip van die verduidelikende opmerkings en lyste goedere en dienste daarin vervat.

(3) In the event of the aforesaid 6th Edition of the International Classification of Goods and Services, 1992, being amended by the World Intellectual Property Organisation at any future stage, the Registrar shall publish such amendments in the *Patent Journal* and shall, to the extent that such amendments necessitate an amendment of Schedule 3 to these regulations, so amend Schedule 3 and publish such amendment.

(4) If any doubt arises as to the class in which any particular description of goods or services belongs, the matter shall be determined by the Registrar.

Documents

[Section 69 (2)]

5. Subject to any directions that may be given by the Registrar, all documents required by the Act or by these regulations to be filed with the Registrar shall be typewritten, lithographed or printed in one of the official languages of the Republic in legible roman characters with black ink upon strong paper, on one side of the paper only, of A4 standard size and shall have on the left hand side a margin of at least 35 mm.

Service of documents

(Section 66)

6. (1) Any document to be filed with the Registrar may be sent through the post. Any such document so sent shall not be deemed to have been duly sent until it is received by the Registrar.

(2) Any document to be served on any person other than the Registrar may be sent by registered post. Any document so sent shall be deemed to have been delivered in the ordinary course of post, and in proving such service or sending it shall be sufficient to prove that such document was properly addressed and put into the post and registered.

(3) Any affidavit to be filed with the Registrar or served on any other person in terms of regulations 19 and 52 (2) may be sent by facsimile transmission. Such transmitted copy shall be received and accepted by the Registrar and any such other person and shall be deemed to be in compliance with these regulations: Provided that the original version of such affidavit is filed with the Registrar before noon on the court day but one preceding the day upon which the matter is to be heard, or within 15 court days of the date of signature of the document, whichever is the earlier.

(4) Any other document or copy to be filed with the Registrar or served on any other person in terms of the Act may be filed or served by facsimile transmission or by means of electronic transfer: Provided that the original document or copy, as the case may be, is filed or served within 15 court days of the date of signature thereof.

(5) All documents relating to an entry in the register to be served on the proprietor of the trade mark shall be served at his address for service.

(6) All documents to be sent to or served on a registered user or assignee shall be sent to or served on the registered user or assignee of the trade mark at his address for service as recorded with the Registrar.

(3) Indien die gemelde 6de uitgawe van die International Classification of Goods and Services, 1992, in enige stadium van die toekoms deur die World Intellectual Property Organisation gewysig word, moet die Registrateur sodanige wysigings in die *Patent Joernaal* publiseer en Bylae 3 van hierdie regulasies wysig in die mate dat sodanige wysigings 'n wysiging van Bylae 3 noodsaak, en sodanige wysiging publiseer.

(4) Indien enige twyfel ontstaan oor die klas waartoe 'n bepaalde beskrywing van goedere of dienste behoort, moet die aangeleentheid deur die Registrateur beslis word.

Dokumente

[Artikel 69 (2)]

5. Behoudens voorskrifte van die Registrateur moet alle dokumente wat ingevolge die Wet of hierdie regulasies by die Registrateur ingedien moet word, getik, gelitografeer of gedruk wees in een van die amptelike tale van die Republiek in leesbare romeinse karakters met swart ink op sterk papier, net op een kant van die papier, van A4-standaardgrootte en met 'n kantruimte van minstens 35 mm aan die linkerkant.

Betekening van dokumente

(Artikel 66)

6. (1) Enige dokument wat by die Registrateur ingedien moet word, kan per pos gestuur word. 'n Dokument wat aldus gestuur word, word nie geag behoorlik gestuur te wees nie alvorens dit deur die Registrateur ontvang is.

(2) Enige dokument wat aan enige ander persoon as die Registrateur beteken moet word, kan per geregistreerde pos gestuur word. 'n Dokument wat aldus gestuur is, word geag afgelewer te wees in die gewone loop van die pos, en by die lewering van bewys dat dit aldus beteken of gestuur is, is dit voldoende om te bewys dat sodanige dokument behoorlik geadresseer was en gepos en geregistreer is.

(3) 'n Beëdigde verklaring wat by die Registrateur ingedien of aan 'n ander persoon beteken moet word ingevolge regulasies 19 en 52 (2), kan per faksimileerversending gestuur word. 'n Dokument aldus gestuur moet deur die Registrateur en sodanige ander persoon ontvang en aanvaar word en moet geag word in ooreenstemming met hierdie regulasies te wees: Met dien verstande dat die oorspronklike weergawe van sodanige beëdigde verklaring by die Registrateur ingedien word voor middag op die tweede hofdag voor die dag waarop die aangeleentheid verhoor moet word, of binne vyftien hofdae na die datum van ondertekening van die dokument, naamlik die vroegste datum.

(4) Enige ander dokument of afskrif wat ingevolge die Wet by die Registrateur ingedien of aan 'n ander persoon beteken moet word, kan per faksimileerversending of elektroniese oordrag ingedien of beteken word: Met dien verstande dat die oorspronklike dokument of afskrif, na gelang van die geval, binne vyftien hofdae na die datum van ondertekening daarvan ingedien of beteken moet word.

(5) Alle dokumente rakende 'n inskrywing in die register wat aan die eienaar van die handelsmerk beteken moet word, moet by sy adres vir betekening beteken word.

(6) Alle dokumente wat aan 'n geregistreerde gebruiker of sessionaris gestuur of beteken moet word, moet aan die geregistreerde gebruiker of sessionaris van die handelsmerk gestuur of beteken word by sy adres vir betekening soos by die Registrateur aangeteken.