

23 Transitional provisions

Contents

- [1. Introduction](#)
- [2. Applications to register a trade mark that were received prior to the commencement of the Trade Marks Act 2002](#)
 - [2.1 Registrability requirements](#)
 - [2.2 Proceedings related to such applications](#)
 - [2.3 Registration](#)
 - [2.3.1 Registered status](#)
 - [2.3.2 Validity of the original registration](#)
 - [2.3.3 Renewal](#)
- [3. Trade marks that were registered under the Trade Marks 1953 prior to the commencement of the Trade Marks Act 2002](#)
 - [3.1 Registered status](#)
 - [3.2 Validity of the original registration](#)
 - [3.3 Renewal](#)
 - [3.4 Applications for alteration, assignment, expunction or cancellation](#)
 - [3.5 Revocation on the grounds of non-use](#)
 - [3.5.1 Non-use from the actual date of registration](#)
 - [3.5.2 Use and suspension](#)
 - [3.6 Removal](#)
 - [3.6.1 Removal where the mark expired prior to the commencement of the Trade Marks Act 2002 but was not advertised before commencement](#)
 - [3.6.2 Removal of a mark that has expired after the commencement of the Trade Marks Act 2002, but for which no notice under section 59\(2\) of the Trade Marks Act 2002 has issued](#)
 - [3.7 Restoration](#)
- [4. Any other proceedings that commenced before the commencement of the Trade Marks Act 2002](#)
- [5. Defensive Trade Marks](#)
 - [5.1 Applications to Register Defensive Trade Marks](#)
 - [5.2 Registered Defensive Trade Marks](#)
 - [5.2.1 Registered status](#)
 - [5.2.2 Renewal](#)
 - [5.2.3 Applications for alteration, assignment, expunction or cancellation](#)
 - [5.2.4 Proceedings in relation to registered defensive trade marks](#)
 - [5.2.5 Revocation on the grounds of non-use](#)
- [6. Border protection measures](#)
- [7. Certificates of validity](#)
- [8. Orders in council relating to convention countries](#)
- [9. Associations, notes, disclaimers and conditions](#)
- [10. Prohibited marks order](#)

1. Introduction

The provisions dealing with the transition from the Trade Marks Act 1953 to the Trade Marks Act 2002 are found in sections 202 to 209 of the Trade Marks Act 2002.

The Trade Marks Act 1953 is repealed by virtue of section 202(1) of the Trade Marks Act 2002.

2. Applications to register a trade mark that were received prior to the commencement of the Trade Marks Act 2002

2.1 Registrability requirements

Applications for the registration of a trade mark¹ that were filed before the commencement of the Trade Marks Act 2002 must meet the requirements of the Trade Marks Act 1953.²

Footnotes

¹ Other than applications for the registration of a defensive trade mark; see section 203(2) of the Trade Marks Act 2002.

² See section 203(1)(a) of the Trade Marks Act 2002

2.2 Proceedings related to such applications

Where an application for the registration of a trade mark³ was filed before the commencement of the Trade Marks Act 2002, any proceedings related to that application will be processed under the Trade Marks Act 1953 until the trade mark concerned is registered,⁴ including:

- Proceedings that commenced before the Trade Marks Act 2002 came into force; and
- Proceedings that commenced, or that commence, after the Trade Marks Act 2002 came into force.

There is one exception to the above. Where an application for the registration of a trade mark was filed before the commencement of the Trade Marks Act 2002, any application for assignment or transmission of that application will be processed under the Trade Marks Act 2002⁵ and the assignment or transmission may therefore take place prior to registration.

Once the trade mark concerned is registered, the Trade Marks Act 2002 applies in respect of any proceedings related to the registration.

Footnotes

³ Other than an application for the registration of a defensive trade mark; see section 203(2) of the Trade Marks Act 2002.

⁴ Section 203(1)(a) states that the Trade Marks Act 1953 applies in respect of an application received before the commencement of the Trade Marks Act 2002, and “any proceedings related to that application”, but only “until the trade mark is registered”.

⁵ See sections 203(3) and 12(1) of the Trade Marks Act 2002

2.3 Registration

Section 203(1)(a) states that the Trade Marks Act 1953 continues in force and applies in respect of applications for the registration of a trade mark⁶ that were received before the commencement of the Trade Marks Act 2002 “until the trade mark is registered”. Section 35(3) of the Interpretation Act 1999 states that “a period of time described ... as continuing ... until a specified day, act, or event includes that day or the day of the act or event”. Where an application to register a trade mark that was received before the commencement of the Trade Marks Act 2002 reaches the point of registration, its registration will therefore occur under the Trade Marks Act 1953.

Section 29(1) of the Trade Marks Act 1953 states that the registration of a trade mark under that Act “shall be for a period of 7 years”. It follows that all trade mark applications that were received before the commencement of the Trade Marks Act 2002, but that are registered after the commencement of the Trade Marks Act 2002, have an initial registration period of 7 years as they are registered under the Trade Marks Act 1953.⁷

Footnotes

⁶ Other than applications for the registration of defensive trade marks; see section 203(2) of the Trade Marks Act 2002.

⁷ Section 57(2) of the Trade Marks Act 2002 stipulates that section 57(1) of that Act does not apply to a trade mark “first registered under the Trade Marks Act 1953”.

2.3.1 Registered status

Trade marks registered under the Trade Marks Act 1953, whose deemed dates of registration predate the Trade Marks Act 2002, are considered to be trade marks that were valid immediately before the commencement of the Trade Marks Act 2002. It follows that section 208(3) of the Trade Marks Act 2002 applies to all trade marks that are registered under the Trade Marks Act 1953 after the commencement of the Trade Marks Act 2002. Following their registration such trade marks are deemed to be registered under the Trade Marks Act 2002⁸ and retain their original dates of registration.⁹

Footnotes

⁸ See section 208(3)(a) of the Trade Marks Act 2002.

⁹ See section 208(3)(b) of the Trade Marks Act 2002.

2.3.2 Validity of the original registration

Trade marks registered under the Trade Marks Act 1953, whose deemed dates of registration predate the Trade Marks Act 2002, are considered to be trade marks that were valid immediately before the commencement of the Trade Marks Act 2002. It follows that sections 208(1) and 208(2) apply to all trade marks that are registered under the Trade Marks Act 1953 after the commencement of the Trade Marks Act 2002. The original registrations of such trade marks can only be invalidated if the trade marks are declared to be invalid under section 73 of the Trade Marks Act 2002.¹⁰

Footnote

¹⁰ See sections 208(1) and 208(2) of the Trade Marks Act 2002. The reference to “section 74” in section 208(2) was corrected to “section 73”; see the Statutes Amendment Bill (No 3) 2002.

2.3.3 Renewal

At the end of the initial registration period, the registration will be renewable for periods of 10 years in accordance with section 58 of the Trade Marks Act 2002.

3. Trade marks that were registered under the Trade Marks 1953 prior to the commencement of the Trade Marks Act 2002

3.1 Registered status

Trade marks that were registered under the Trade Marks Act 1953, and that were valid immediately before the commencement of the Trade Marks Act 2002, are deemed to be registered under the Trade Marks Act 2002 ¹¹ and retain their original dates of registration. ¹²

Footnotes

¹¹ See section 208(3)(a) of the Trade Marks Act 2002.

¹² See section 208(3)(b) of the Trade Marks Act 2002.

-

3.2 Validity of the original registration

Where a trade mark was valid immediately before the commencement of the Trade Marks Act 2002, the original registration of that trade mark can only be invalidated if the trade mark is declared to be invalid under section 73 of the Trade Marks Act 2002. ¹³

Footnotes

¹³ See section 208(3)(a) of the Trade Marks Act 2002.

-

3.3 Renewal

Trade marks that were registered under the Trade Marks Act 1953, and that were valid immediately before the Trade Marks Act 2002 came into force, retain their existing registration periods of either 7 or 14 years, as applicable. ¹⁴

In instances where the renewal application was received before the commencement of the Trade Marks Act 2002, the Trade Marks Act 1953 applies in respect of the renewal application, ¹⁵ with the result that the registration will be renewed for a period of 14 years from the date of expiration of the original registration or of the last renewal of registration, as applicable. ¹⁶

In all other instances, upon the expiry of the existing registration period the registration will be renewable for periods of 10 years at a time in accordance with section 58 of the Trade Marks Act 2002. ¹⁷

Section 59(2) of the Trade Marks Act 2002 requires the Commissioner to provide notice of the upcoming expiration of a trade mark registration. Section 59(3) stipulates when the Commissioner must remove a trade mark from the register in the event that renewal does not take place. Sections 59(2)(c) and 59(3) both refer to “the expiration of the period of 10 years”. However, in instances where the trade mark concerned was registered before the Trade Marks Act 2002 came into force, and where that trade mark is being renewed for the first time pursuant to the Trade Marks Act 2002, in order to give effect to section 208(3)(c) of the Trade Marks Act 2002 the references to a period of “10 years” in sections 59(2)(c) and 59(3) should be read as “7 years” ¹⁸ or “14 years” ¹⁹, as applicable.

Summary:

Renewal application received when?	Renewal application processed under	Renewed for
Before the Trade Marks Act 2002 commenced	Trade Marks Act 1953	14 Years
After the Trade Marks Act 2002 commenced	Trade Marks Act 2002	10 Years

Footnotes

¹⁴ See section 208(3)(c) of the Trade Marks Act 2002.

¹⁵ See section 203(1)(b) of the Trade Marks Act 2002. This does not apply to renewal applications in respect of defensive trade mark registrations.

¹⁶ See section 29(2) of the Trade Marks Act 1953.

¹⁷ See section 208(3)(c) of the Trade Marks Act 2002.

¹⁸ In the case of registrations that have not previously been renewed.

¹⁹ In the case of registrations that have previously been renewed.

3.4 Applications for alteration, assignment, expunction or cancellation

An application for the alteration, assignment, expunction or cancellation of a registered trade mark ²⁰ that was received before the commencement of the Trade Marks Act 2002 will be processed in accordance with the Trade Marks Act 1953.²¹

An application for the alteration, expunction or cancellation of a registered trade mark that is received after the commencement of the Trade Marks Act 2002 will be processed in accordance with the Trade Marks Act 2002.

An application for the assignment of a registered trade mark that is received after the commencement of the Trade Marks Act 2002 will be processed in accordance with the Trade Marks Act 2002, even if the assignment document itself is dated before the new Act comes into force.

Footnotes

²⁰ Other than applications for the alteration, assignment, expunction or cancellation of a registered defensive trade mark; see section 203(2) of the Trade Marks Act 2002.

²¹ See section 203(1)(b) of the Trade Marks Act 2002.

3.5 Revocation on the grounds of non-use

3.5.1 Non-use from the actual date of registration

A trade mark (other than a defensive trade mark) with an actual date of registration²² under the Trade Marks Act 1953 that is within the five years prior to the commencement of the Trade Marks Act 2002 cannot be revoked under section 66(1)(a) of the Trade Marks Act 2002 until five years and one month²³ have elapsed since its actual date of registration.

Section 66(1)(a) of the Trade Marks Act 2002 applies to all trade mark applications that have an actual date of registration after the commencement of the Trade Marks Act 2002 – whether registered under the provisions of the Trade Marks Act 1953 or the Trade Marks Act 2002.

Footnotes

²² Practice Guideline Amendment 2004/05, Information For Clients, Issue 33: 30 September 2004.

²³ Under section 66(1)(a), an application for revocation on grounds of non-use may only be made one month after the relevant period of non-use has passed.

3.5.2 Use and suspension

A trade mark (other than a defensive trade mark) that was registered under the Trade Marks Act 1953 more than five years before the commencement of the Trade Marks Act 2002 cannot be revoked under section 66(1)(b) of the Trade Marks Act 2002 if use was suspended before the commencement of the Trade Marks Act 2002, until use has been suspended for an uninterrupted period of more than five years.²⁴

Footnote

²⁴ See sections 208(5) and 208(6) of the Trade Marks Act 2002.

3.6 Removal

²⁵ Under the Trade Marks Act 1953, a trade mark registration was not removed from the register for non-payment of the renewal fee until:

- the Commissioner had sent notice to the registered proprietor of the date of expiration of the trade mark and the conditions as to payment of fees and otherwise upon which renewal of registration may be obtained; and
- the time prescribed in the notice has expired and the conditions had not been duly complied with.²⁶

The notice under section 29(3) must have been sent not less than 3 months prior to the expiration of the registration. Regulation 54 of the Trade Marks Regulations 1954 provided that the Commissioner must advertise the non-payment of a renewal fee in the Patent Office Journal and, if payment of the fee were received in the period of one month after advertisement, the registration would be renewed.

The Trade Marks Regulations 1954 were revoked by regulation 165 of the Trade Marks Regulations 2003. Regulation 165 provides that despite the revocation of the Trade Marks Regulations 1954 they remain in force and apply in respect of the matters to which the Trade Marks Act 1953 remains in force under section 203 of the Trade Marks Act 2002.

Footnotes

²⁵ Practice Guideline Amendment 2003/3, Information For Clients, Issue 28: 30 September 2003

²⁶ See section 29 of the Trade Marks Act 1953.

3.6.1 Removal where the mark expired prior to the commencement of the Trade Marks Act 2002 but was not advertised before commencement

There are no transitional provisions in the Trade Marks Act 2002 or Trade Marks Regulations 2003 stating whether advertisement of a registration that expired under the Trade Marks Act 1953 should occur after the commencement of the Trade Marks Act 2002.

However, section 18 of the Interpretation Act 1999 provides the general rules relating to the effect of the repeal of legislation on existing rights under that legislation. Generally, “the repeal of an enactment (including regulations) does not affect the completion of a matter or thing or the bringing or completion of proceedings that relate to an existing right, interest, title, immunity, or duty” ²⁷. Regulation 54 of the Trade Marks Regulations 1954 confers on trade mark proprietors a right to continued registration of their trade marks until one month after advertisement of the expiry of their trade marks.

In the absence of any transitional provisions to the contrary, the Trade Marks Act 1953 and Trade Marks Regulations 1954 will continue to have effect for the purpose of completing any matter or thing that relates to an existing right, interest title or duty, as if they had not been repealed²⁸. Accordingly trade marks that expired prior to the commencement of the Trade Marks Act 1953 will still be advertised according to regulation 54 of the Trade Marks Regulations 1954, and will not be removed if the renewal fee has not been paid until one month after such advertisement.

Footnotes

²⁷ See section 18(1) of the Interpretation Act 1999.

²⁸ See section 18(2) of the Interpretation Act 1999.

3.6.2 Removal of a mark that has expired after the commencement of the Trade Marks Act 2002, but for which no notice under section 59(2) of the Trade Marks Act 2002 has issued

Section 59(3) of the Trade Marks Act 2002 provides that the Commissioner must remove a trade mark from the register if the mark has expired and:

- a notice under section 59(2)(a) has issued advising the owner of the date of expiry of the trade mark; and
- the conditions as to payment of the renewal fee specified in that notice have not been complied with.

The owner of a trade mark for which the term of registration expired less than 3 months after 20 August 2003 will have received a renewal reminder under section 29(3) of the Trade Marks Act 1953. The information required in a notice to a trade mark owner under section 59(2)(a) of the Trade Marks Act 2002 is very similar to that required under section 29(3) of the 1953 Act. A notice issued under section 29(3) of the 1953 Act must state:

- the date of expiration of the trade mark; and
- the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained.

A notice issued under section 59(2)(a) of the Trade Marks Act 2002 must state the date on which the registration of the trade mark to which the notice relates will expire.

A notice under section 29(3) of the Trade Marks Act 1953 serves the same purpose as a notice under section 59(2)(a) of the Trade Marks Act 2002. Therefore, where a notice under section 29(3) of the Trade Marks Act 1953 has issued and the prescribed renewal fee has not been paid prior to the date specified in the notice, the criteria in section 59(3)(a) and (b) of the Trade Marks Act 2002 have been met and the Commissioner must remove the trade mark from the register under section 59(3).

3.7 Restoration

Regulation 55 of the Trade Marks Regulations 1954 provides that a mark that has been removed from the register, may be restored to the register “upon payment of the renewal fee and receipt of an application [for renewal], together with a restoration fee and an application [for restoration]” if the Commissioner is satisfied that it is just to do so, and subject to any conditions the Commissioner thinks fit.

Regulation 134 of the Trade Marks Regulations 2003 provides that where a trade mark has expired and the mark has been removed to the register, the mark may be restored to the register. However, the owner of the removed trade mark must apply for restoration of the trade mark within 12 months of the date on which the trade mark was removed from the register.

As stated previously, section 203 of the Trade Marks Act 2002 sets out the purposes for which the Trade Marks Act 1953 continues in effect despite its repeal. Generally section 203 of the Trade Marks Act 2002 preserves existing rights under the Trade Marks Act 1953, i.e. the rights of a trade mark owner or applicant, or the initiator of proceedings in relation to a trade mark application or registration.

There are no transitional provisions in the Trade Marks Act 2002 or Trade Marks Regulations 2003 that relate to restoration of trade marks to the register. The intention appears to have been that any application for restoration of a trade mark to the register after the commencement of

the Trade Marks Act 2002 will be subject to the provisions of the Trade Marks Act 2002 and Trade Marks Regulations 2003, irrespective of whether the mark was removed under the Trade Marks Act 1953 or Trade Marks Act 2002s.

Accordingly any application for restoration of a trade mark registration that lapsed before the commencement Trade Marks Act 2002 must be made according to regulation 134 of the Trade Marks Regulations 2003 within one year of its removal from the register. Once the trade mark is restored to the register it will be deemed to be registered under the Trade Marks Act 2002.

4. Any other proceedings that commenced before the commencement of the Trade Marks Act 2002

The Trade Marks Act 1953 will continue to apply to any other proceedings that commenced under the Trade Marks Act 1953 before the commencement of the Trade Marks Act 2002.²⁹

Footnote

²⁹ See section 203(1)(c) of the Trade Marks Act 2002.

5. Defensive Trade Marks

5.1 Applications to Register Defensive Trade Marks

Under the Trade Marks Act 1953, well known trade marks could be registered in respect of goods or services in which the owner of the trade mark did not trade or intend to trade, where use of the trade mark in relation to those goods or services by other traders would be likely to be taken as indicating a connection in the course of trade with the owner of the well known trade mark.³⁰

Under the Trade Marks Act 2002 it is not possible to apply to register a defensive trade mark, as no provision is made for such applications.

The transitional provisions expressly state that the Trade Marks Act 1953 does not continue to apply to applications for the registration of defensive trade marks that were received before the commencement of the Trade Marks Act 2002.³¹ The transitional provisions also state that the Commissioner must refund any fee paid in respect of an application for the registration of a defensive trade mark that was filed before the commencement of the Trade Marks Act 2002 and that was not yet registered at the commencement of the Trade Marks Act 2002.³²

These provisions clearly indicate that applications for the registration of defensive trade marks that were filed prior to the commencement of the Trade Marks Act 2002 may not proceed to registration after the commencement of the Trade Marks Act 2002.

On commencement of the Trade Marks Act 2002:

- The Commissioner will refund all fees paid in respect of applications to register defensive trade marks that are not yet registered.
- Applications to register defensive trade marks will be processed under the Trade Marks Act 2002. They will be rejected under section 43 of that Act, on the grounds that they have not been made in accordance with the Trade Marks Act 2002,³³ which does not provide for defensive trade mark registrations.

The combined effect of sections 203(1)(a) and 203(2) of the Trade Marks Act 2002 is that the Trade Marks Act 1953 does not apply to applications in respect of defensive trade marks, or “any proceedings related to” such applications, until the trade mark is registered. It follows from this that any proceedings that commenced prior to the commencement of the Trade Marks Act 2002 in relation to applications to register defensive trade marks will be processed in accordance with the Trade Marks Act 2002.

Footnotes

³⁰ See section 36 of the Trade Marks Act 1953.

³¹ See sections 203(2) and 203(1)(a) of the Trade Marks Act 2002.

³² See section 205 of the Trade Marks Act 2002.

³³ See section 13(2)(a) of the Trade Marks Act 2002, which states that in order to be registrable under the Trade Marks Act 2002, the application must be made in accordance with that Act.

5.2 Registered Defensive Trade Marks

5.2.1 Registered status

Defensive trade marks that were registered under the Trade Marks Act 1953, and that were valid immediately before the commencement of the Trade Marks Act 2002, are deemed to be registered under the Trade Marks Act 2002³⁴ and retain their original dates of registration.³⁵

Given that no provision is made in the Trade Marks Act 2002 for defensive trade marks, then upon the commencement of the Trade Marks Act 2002, registered defensive trade marks are deemed to be registered as ordinary trade marks.

Footnotes

³⁴ See section 208(3)(a) of the Trade Marks Act 2002.

³⁵ See section 208(3)(b) of the Trade Marks Act 2002.

5.2.2 Renewal

Defensive trade marks that were registered under the Trade Marks Act 1953, and that were valid immediately before the commencement of the Trade Marks Act 2002, retain their existing registration periods of either 7 or 14 years, as applicable.³⁶

Upon the expiry of the existing registration period the registration will be renewable for periods of 10 years at a time in accordance with section 58 of the Trade Marks Act 2002,³⁷ regardless of when the renewal application is received.³⁸

The comments made earlier in these Guidelines³⁹ regarding sections 59(2)(c) and 59(3) of the Trade Marks Act 2002 apply equally to the first renewal of a defensive trade mark under the Trade Marks Act 2002.

Footnotes

³⁶ See section 208(3)(c) of the Trade Marks Act 2002.

³⁷ See section 208(3)(c) of the Trade Marks Act 2002.

³⁸ The Trade Marks Act 2002 applies even in instances where the renewal application was received before the commencement of the Trade Marks Act 2002, as section 203(1)(b) of the Trade Marks Act 2002 does not apply to applications in respect of defensive trade marks by virtue of section 203(2) of the same Act.

³⁹ See page 4 above.

5.2.3 Applications for alteration, assignment, expunction or cancellation

Applications for the alteration, assignment, expunction or cancellation of registered defensive trade marks will be processed in accordance with the Trade Marks Act 2002 regardless of when those applications are received.⁴⁰

Footnotes

⁴⁰ The Trade Marks Act 2002 applies even in instances where the applications for alteration, assignment, expunction or cancellation were received before the commencement of the Trade Marks Act 2002, as section 203(1)(b) of the Trade Marks Act 2002 does not apply to applications in respect of defensive trade marks by virtue of section 203(2) of the same Act.

5.2.4 Proceedings in relation to registered defensive trade marks

Any proceedings that commenced prior to the commencement of the Trade Marks Act 2002 in relation to registered defensive trade marks will be processed in accordance with the Trade Marks Act 1953.⁴¹

Proceedings that commence after the commencement of the Trade Marks Act 2002 in relation to registered defensive trade marks will be processed in accordance with the Trade Marks Act 2002.

Footnotes

⁴¹ See section 203(1)(c) of the Trade Marks Act 2002. Section 203(2) does not appear to except proceedings in relation to registered defensive trade marks from the ambit of section 203(1)(c), as section 203(1)(c) concerns “proceedings” rather than “applications”.

5.2.5 Revocation on the grounds of non-use

A trade mark that was registered as a defensive trade mark under the Trade Marks Act 1953 cannot be revoked under section 66(1)(a) or section 66(1)(b) of the Trade Marks Act 2002 until three years after the commencement of the Trade Marks Act 2002,⁴² but can be revoked under those sections after that three year period has elapsed.

Footnote

⁴² See section 208(7) of the Trade Marks Act 2002.

6. Border protection measures

Notices given by trade mark owners to the chief executive under section 54B of the Trade Marks Act 1953, requesting the detention of any goods that an infringing sign is used upon or in physical relation to, will be treated as if they were notices given under section 137 of the Trade Marks Act 2002.⁴³ Subpart 3 of Part 4 of the Trade Marks Act 2002 will apply in respect of such notices.⁴⁴

Footnotes

⁴³ See section 204(a) of the Trade Marks Act 2002.

⁴⁴ See section 204(b) of the Trade Marks Act 2002.

7. Certificates of validity

A certificate of validity of registration that was given under section 61 of the Trade Marks Act 1953 has effect as if it had been given under section 165 of the Trade Marks Act 2002.^{[45](#)}

Footnotes

⁴⁵ See section 206 of the Trade Marks Act 2002.

8. Orders in council relating to convention countries

An Order in Council made under section 72 of the Trade Marks Act 1953 has effect as if it had been made under section 200 of the Trade Marks Act 2002.^{[46](#)}

Footnotes

⁴⁶ See section 207 of the Trade Marks Act 2002.

9. Associations, notes, disclaimers and conditions

Associations entered on the register cease to have effect on the commencement of the Trade Marks Act 2002.^{[47](#)}

Any other note, disclaimer or condition entered on the register in relation to a trade mark registered under the Trade Marks Act 1953 is deemed to be entered on the register under the Trade Marks Act 2002.^{[48](#)}

Footnotes

⁴⁷ See section 209(1) of the Trade Marks Act 2002.

⁴⁸ See section 209(2) of the Trade Marks Act 2002.

10. Prohibited marks order

The Prohibited Marks Order 1961 and the Prohibited Marks Order 1982 continue in force as if the Trade Marks Act 1953 had not been repealed, and may be amended or revoked in the same manner as was possible under the Trade Marks Act 1953.^{[49](#)}

Footnotes

⁴⁹ See section 202(2) of the Trade Marks Act 2002.
