
DRAFT STATUTORY INSTRUMENTS

2015 No.

The Standardised Packaging of
Tobacco Products Regulations 2015

PART 5

Miscellaneous provisions

Trade marks and registered designs

Regulations not to affect registration of trade marks etc

- 13.—(1) For the avoidance of doubt, nothing in, or done in accordance with, these Regulations—
- (a) forms an obstacle to the registration of a trade mark under the Trade Marks Act 1994⁽¹⁾, or
 - (b) gives rise to a ground for the declaration of invalidity of a registered trade mark under section 47(1) of that Act (grounds for invalidity of registration).
- (2) Without limiting paragraph (1), nothing in, or done in accordance with, these Regulations—
- (a) causes any trade mark to be contrary to public policy or to accepted principles of morality for the purposes of section 3(3)(a) of that Act (absolute grounds for refusal of registration),
 - (b) amounts to an enactment or rule of law which prohibits the use of a trade mark for the purposes of section 3(4) of that Act⁽²⁾,
 - (c) amounts to a rule of law by which the use in the United Kingdom of any trade mark is liable to be prevented for the purposes of section 5(4) of that Act (relative grounds for refusal of registration),
 - (d) causes an application for the registration of a trade mark under that Act to be one which is made in bad faith, or
 - (e) prevents an applicant for the registration of a trade mark under that Act from having such a *bona fide* intention as is mentioned in section 32(3) of that Act (application for registration of trade mark).
- (3) Paragraph (4) applies for the purposes of section 6(3) of the Trade Marks Act 1994 (meaning of “earlier trade mark”) if the trade mark there mentioned is a registered trade mark and its use is affected by these Regulations.
- (4) A *bona fide* use of the trade mark is to be regarded as having taken place during the two years there mentioned if there would have been such use of the trade mark during that period were these Regulations not in force.
- (5) Paragraph (6) applies for the purposes of—

(1) 1994 c. 26.

(2) Section 3(4) was amended by S.I. 2011/1043.

- (a) section 6A(3) of the Trade Marks Act 1994 (raising of relative grounds in opposition proceedings in case of non-use)(**3**), or
- (b) section 47(2B) of that Act (grounds for invalidity of registration)(**4**),

if the earlier trade mark there mentioned is a registered trade mark and its use is affected by these Regulations.

(6) If any provision of these Regulations causes any non-use of the trade mark within the period of five years there mentioned, such provision is to be regarded as a proper reason for that non-use, provided that the trade mark would have been put to such genuine use as is there mentioned were these Regulations not in force.

(7) Paragraph (8) applies for the purposes of section 46(1)(a) or (b) of the Trade Marks Act 1994 (revocation of registration) if the use of the registered trade mark there mentioned is affected by these Regulations.

(8) If any provision of these Regulations causes any non-use of the registered trade mark within the period of five years there mentioned, such provision is to be regarded as a proper reason for that non-use, provided that the registered trade mark would have been put to such genuine use as is there mentioned were these Regulations not in force.

(9) To the extent that any provision of the Trade Marks Act 1994 mentioned in this regulation (a “relevant provision”) applies to international trade marks (UK) (whether by virtue of that Act, the Trade Marks (International Registration) Order 2008(**5**) or otherwise, and whether with or without modifications), then provision made by this regulation in relation to that relevant provision shall also apply (with any necessary modifications) to international trade marks (UK).

(3) Section 6A was inserted by [S.I. 2004/946](#).

(4) Section 47(2B) was inserted by [S.I. 2004/946](#).

(5) [S. I. 2008/2206](#).