

*Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Paragraph 14. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 2A

#### EUROPEAN UNION TRADE MARKS

##### Textual Amendments

- F1** Sch. 2A inserted (31.12.2020) by [The Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/269\)](#), reg. 1(1), [Sch. 1 para. 3](#) (as amended by [S.I. 2020/1050](#), regs. 1(2), [9\(b\)\(i\)\(ii\)](#)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

### PART 1

#### EXISTING EUROPEAN UNION TRADE MARKS

##### *Determination of invalidity and liability to revocation in relation to claims of seniority*

- 14 (1) Where pursuant to paragraph 13 a comparable trade mark (EU) is treated as if it had a valid claim to seniority of a registered trade mark which has been—
- (a) removed from the register under section 43; or
  - (b) surrendered under section 45,
- any person may apply to the registrar or to the court for the declaration set out in sub-paragraph (2).
- (2) The declaration is that if the trade mark had not been so removed or surrendered, the registration of the trade mark would have been liable to be revoked under section 46 with effect from a date specified in the declaration or declared invalid under section 47.
- (3) Where the declaration is that had the trade mark not been so removed or surrendered the registration of it would have been liable to be—
- (a) revoked under section 46 with effect from a date prior to—
    - (i) the filing date accorded pursuant to Article 32 to the application which resulted in the registration of the existing EUTM from which the comparable trade mark (EU) derives where there has been no claim of priority; or
    - (ii) the priority date (if any) accorded pursuant to a right of priority claimed pursuant to Article 35 in respect of the existing EUTM from which the comparable trade mark (EU) derives where there has been a claim of priority; or
  - (b) declared invalid under section 47,
- the seniority claimed for the comparable trade mark (EU) is to be treated as if it never had effect.

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- (4) Where pursuant to paragraph 13 a comparable trade mark (EU) is treated as if it had a valid claim to seniority of a protected international trade mark (UK) which has been—
- (a) removed from the register of trade marks maintained by the International Bureau for the purposes of the Madrid Protocol; or
  - (b) surrendered under the Madrid Protocol,
- any person may apply to the registrar or to the court for the declaration set out in sub-paragraph (5).
- (5) The declaration is that, if the trade mark had not been so removed or surrendered, the protection of the mark in the United Kingdom would have been liable to be revoked under section 46 with effect from a date specified in the declaration or declared invalid under section 47.
- (6) Where the declaration is that had the trade mark not been so removed or surrendered the protection of the mark in the United Kingdom would have been liable to be—
- (a) revoked under section 46 with effect from a date prior to—
    - (i) the filing date accorded pursuant to Article 32 to the application which resulted in the registration of the existing EUTM from which the comparable trade mark (EU) derives where there has been no claim of priority; or
    - (ii) the priority date (if any) accorded pursuant to a right of priority claimed pursuant to Article 35 in respect of the existing EUTM from which the comparable trade mark (EU) derives where there has been a claim of priority; or
  - (b) declared invalid under section 47,
- the seniority claimed for the comparable trade mark (EU) is to be treated as if it never had effect.
- (7) References in sub-paragraphs (5) and (6) to sections 46 and 47 are to those sections as they apply to a protected international trade mark (UK) under an order made pursuant to section 54.
- (8) Where a trade mark has been surrendered or allowed to lapse in respect of some only of the goods or services for which it is registered, the declaration in sub-paragraphs (2) and (5) is that if the goods or services had not been removed from the registration, the registration of the trade mark would have been liable to be revoked under section 46 with effect from a date specified in the declaration or declared invalid under section 47 and sub-paragraphs (3) and (6) shall be construed accordingly.]

**Changes to legislation:**

There are currently no known outstanding effects for the Trade Marks Act 1994, Paragraph 14.