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## SCHEDULES

### SCHEDULE 4

Section 106(1).

#### CONSEQUENTIAL AMENDMENTS

##### *General adaptation of existing references*

- 1 (1) References in statutory provisions passed or made before the commencement of this Act to trade marks or registered trade marks within the meaning of the <sup>M1</sup>Trade Marks Act 1938 shall, unless the context otherwise requires, be construed after the commencement of this Act as references to trade marks or registered trade marks within the meaning of this Act.

- (2) Sub-paragraph (1) applies, in particular, to the references in the following provisions—

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M2	Schedule 1, paragraph 7
Industrial Organisation and Development Act 1947	
M3	section 3(1)(b)
Crown Proceedings Act 1947	
M4	section 15(1)(b)
Horticulture Act 1960	
M5	section 1(1)(b)
Printer's Imprint Act 1961	
F1	F1
...	...
M6	Schedule 3, paragraph 17
Northern Ireland Constitution Act 1973	
M7	section 19(2)section 27(4)section 123(7)
Patents Act 1977	
M8	Schedule 1, paragraph 1(c)
Unfair Contract Terms Act 1977	
M9	section 94A(5)
Judicature (Northern Ireland) Act 1978	
M10	section 7(a) and (b)
State Immunity Act 1978	
M11	section 72(5)Schedule 1, paragraph 1(i)

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Supreme Court Act 1981	
M12	Schedule 5, paragraph 2Schedule 8, paragraph 2(14) and 4(2)
Civil Jurisdiction and Judgments Act 1982	
M13	Schedule 3, paragraph 1
Value Added Tax Act 1983	
M14	section 396(3A)(a) or (as substituted by the M15
Companies Act 1985	Companies Act 1989) section 396(2)(d) (i)section 410(4)(c)(v)Schedule 4, Part I, Balance Sheet Formats 1 and 2 and Note (2)Schedule 9, Part I, paragraphs 5(2)(d) and 10(2)
M16	section 15(5)
Law Reform (Miscellaneous Provisions) (Scotland) Act 1985	
M17	section 8(2)
Atomic Energy Authority Act 1986	
M18	article 403(3A)(a) or (as substituted by the M19
Companies (Northern Ireland) Order 1986	Companies (No.2) (Northern Ireland) Order 1990) article 403(2)(d) (i)Schedule 4, Part I, Balance Sheet Formats 1 and 2 and Note (2)Schedule 9, Part I, paragraphs 5(2)(d) and 10(2)
M20	section 2(2)(b)
Consumer Protection Act 1987	
M21	article 5(2)(b)
Consumer Protection (Northern Ireland) Order 1987	
M22	section 83(a)
Income and Corporation Taxes Act 1988	
M23	section 275(h)
Taxation of Chargeable Gains Act 1992	
M24	Schedule 1, paragraph 34.
Tribunals and Inquiries Act 1992	

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#### Textual Amendments

- F1** Entry relating to “Plant Variety and Seeds Act” in Sch. 4 para. 1(2) repealed (8.5.1998) by [1997 c. 66, s. 52, Sch. 4; S.I. 1998/1028, art. 2](#)

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#### **Marginal Citations**

- M1** 1938 c. 22.
- M2** 1947 c. 40.
- M3** 1947 c. 44.
- M4** 1960 c. 22.
- M5** 1961 c. 31.
- M6** 1973 c. 36.
- M7** 1977 c. 37.
- M8** 1977 c. 50.
- M9** 1978 c. 23.
- M10** 1978 c. 33.
- M11** 1981 c. 54.
- M12** 1982 c. 27.
- M13** 1983 c. 55.
- M14** 1985 c. 6.
- M15** 1989 c. 40.
- M16** 1985 c. 73.
- M17** 1986 c. 3.
- M18** S.I. 1986/1032 (N.I. 6).
- M19** S.I. 1990/1504 (N.I. 10).
- M20** 1987 c. 43.
- M21** S.I. 1987/2049 (N.I. 20).
- M22** 1988 c. 1.
- M23** 1992 c. 12.
- M24** 1992 c. 53.

#### *Patents and Designs Act 1907 (c.29)*

- 2 (1) The Patents and Designs Act 1907 is amended as follows.
- (2) In section 62 (the Patent Office)—
- (a) in subsection (1) for “this Act and the Trade Marks Act 1905” substitute “the Patents Act 1977, the Registered Designs Act 1949 and the Trade Marks Act 1994”; and
  - (b) in subsections (2) and (3) for “the Board of Trade” substitute “the Secretary of State”.
- (3) In section 63 (officers and clerks of the Patent Office)—
- (a) for “the Board of Trade” in each place where it occurs substitute “the Secretary of State”; and
  - (b) in subsection (2) omit the words from “and those salaries” to the end.
- (4) The repeal by the <sup>M25</sup>Patents Act 1949 and the <sup>M26</sup>Registered Designs Act 1949 of the whole of the 1907 Act, except certain provisions, shall be deemed not to have extended to the long title, date of enactment or enacting words or to so much of section 99 as provides the Act with its short title.

#### **Marginal Citations**

- M25** 1949 c. 87.
- M26** 1949 c. 88.

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*Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939(c.107)*

- 3 (1) The Patents, Designs, Copyright and Trade Marks (Emergency) Act 1939 is amended as follows.
- (2) For section 3 (power of comptroller to suspend rights of enemy or enemy subject) substitute—

**“3 Power of comptroller to suspend trade mark rights of enemy or enemy subject.**

- (1) Where on application made by a person proposing to supply goods or services of any description it is made to appear to the comptroller—
- (a) that it is difficult or impracticable to describe or refer to the goods or services without the use of a registered trade mark, and
  - (b) that the proprietor of the registered trade mark (whether alone or jointly with another) is an enemy or an enemy subject,
- the comptroller may make an order suspending the rights given by the registered trade mark.
- (2) An order under this section shall suspend those rights as regards the use of the trade mark—
- (a) by the applicant, and
  - (b) by any person authorised by the applicant to do, for the purposes of or in connection with the supply by the applicant of the goods or services, things which would otherwise infringe the registered trade mark,
- to such extent and for such period as the comptroller considers necessary to enable the applicant to render well-known and established some other means of describing or referring to the goods or services in question which does not involve the use of the trade mark.
- (3) Where an order has been made under this section, no action for passing off lies on the part of any person interested in the registered trade mark in respect of any use of it which by virtue of the order is not an infringement of the right conferred by it.
- (4) An order under this section may be varied or revoked by a subsequent order made by the comptroller.”.
- (3) In each of the following provisions—
- (a) section 4(1)(c) (effect of war on registration of trade marks),
  - (b) section 6(1) (power of comptroller to extend time limits),
  - (c) section 7(1)(a) (evidence as to nationality, &c.), and
  - (d) the definition of “the comptroller” in section 10(1) (interpretation),
- for “the Trade Marks Act 1938” substitute “ the Trade Marks Act 1994 ”.

*Trade Descriptions Act 1968 (c.29)*

- 4 In the Trade Descriptions Act 1968, in section 34 (exemption of trade description contained in pre-1968 trade mark)—
- (a) in the opening words, omit “within the meaning of the Trade Marks Act 1938”; and

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- (b) in paragraph (c), for “a person registered under section 28 of the Trade Marks Act 1938 as a registered user of the trade mark” substitute “, in the case of a registered trade mark, a person licensed to use it”.

*Solicitors Act 1974 (c.47)*

- 5 (1) Section 22 of the Solicitors Act 1974 (preparation of instruments by unqualified persons) is amended as follows.
- (2) In subsection (2)(aa) and (ab) (instruments which may be prepared by registered trade mark agent or registered patent agent) for “, trade mark or service mark” substitute “ or trade mark ”.
- (3) In subsection (3A) (interpretation)—
- (a) in the definition of “registered trade mark agent” for “section 282(1) of the Copyright, Designs and Patents Act 1988” substitute “ the Trade Marks Act 1994 ”; and
- (b) in the definition of “registered patent agent” for “of that Act” substitute “ of the Copyright, Designs and Patents Act 1988 ”.

*House of Commons Disqualification Act 1975 (c.24)*

PROSPECTIVE

- 6 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), for the entry relating to persons appointed to hear and determine appeals under the Trade Marks Act 1938 substitute— “ Person appointed to hear and determine appeals under the Trade Marks Act 1994. ”

*Restrictive Trade Practices Act 1976 (c.34)*

- 7 In Schedule 3 to the Restrictive Trade Practices Act 1976 (excepted agreements), for paragraph 4 (agreements relating to trade marks) substitute—
- “4 (1) This Act does not apply to an agreement authorising the use of a registered trade mark (other than a collective mark or certification mark) if no such restrictions as are described in section 6(1) or 11(2) above are accepted, and no such information provisions as are described in section 7(1) or 12(2) above are made, except in respect of—
- (a) the descriptions of goods bearing the mark which are to be produced or supplied, or the processes of manufacture to be applied to such goods or to goods to which the mark is to be applied, or
- (b) the kinds of services in relation to which the mark is to be used which are to be made available or supplied, or the form or manner in which such services are to be made available or supplied, or
- (c) the descriptions of goods which are to be produced or supplied in connection with the supply of services in relation to which the mark is to be used, or the process of manufacture to be applied to such goods.
- ”

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- (2) This Act does not apply to an agreement authorising the use of a registered collective mark or certification mark if—
- (a) the agreement is made in accordance with regulations approved by the registrar under Schedule 1 or 2 to the Trade Marks Act 1994, and
  - (b) no such restrictions as are described in section 6(1) or 11(2) above are accepted, and no such information provisions as are described in section 7(1) or 12(2) above are made, except as permitted by those regulations.”.

*Copyright, Designs and Patents Act 1988 (c.48)*

- 8 (1) The Copyright, Designs and Patents Act 1988 is amended as follows.
- (2) In sections 114(6), 204(6) and 231(6) (persons regarded as having an interest in infringing copies, &c.), for “section 58C of the Trade Marks Act 1938” substitute “section 19 of the Trade Marks Act 1994”.
- (3) In section 280(1) (privilege for communications with patent agents), for “trade mark or service mark” substitute “ or trade mark ”.

*Tribunals and Inquiries Act 1992 (c.53)*

- 9 In Part I of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals), for “Patents, designs, trade marks and service marks” substitute “ Patents, designs and trade marks ”.

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