
STATUTORY INSTRUMENTS

2000 No. 136

The Trade Marks Rules 2000

Decision of registrar, evidence and costs

Decisions of registrar to be taken after hearing

54.—(1) Without prejudice to any provisions of the Act or these Rules requiring the registrar to hear any party to proceedings under the Act or these Rules, or to give such party an opportunity to be heard, the registrar shall, before taking any decision on any matter under the Act or these Rules which is or may be adverse to any party to any proceedings before her, give that party an opportunity to be heard.

(2) The registrar shall give that party at least fourteen days' notice of the time when he may be heard unless that party consents to shorter notice.

Evidence in proceedings before the registrar; s.69

55.—(1) Where under these Rules evidence may be admitted by the registrar in any proceedings before her, it shall be by the filing of a statutory declaration or affidavit.

(2) The registrar may in any particular case take oral evidence in lieu of or in addition to such evidence and shall, unless she otherwise directs, allow any witness to be cross-examined on his statutory declaration, affidavit or oral evidence.

(3) Where these Rules provide for the use of an affidavit or statutory declaration, a witness statement verified by a statement of truth may be used as an alternative; the Registrar may give a direction as she thinks fit in any particular case that evidence must be given by affidavit or statutory declaration instead of or in addition to a witness statement verified by a statement of truth.

(4) The practice and procedure of the High Court with regard to witness statements and statements of truth, their form and contents and the procedure governing their use are to apply as appropriate to all proceedings under these Rules.

(5) Where in proceedings before the registrar, a party adduces evidence of a statement made by a person otherwise than while giving oral evidence in the proceedings and does not call that person as a witness, the registrar may, if she thinks fit, permit any other party to the proceedings to call that person as a witness and cross-examine him on the statement as if he had been called by the first-mentioned party and as if the statement were his evidence in chief.

Making and subscription of statutory declaration or affidavit

56.—(1) Any statutory declaration or affidavit filed under the Act or these Rules shall be made and subscribed as follows—

- (a) in the United Kingdom, before any justice of the peace or any commissioner or other officer authorised by law in any part of the United Kingdom to administer an oath for the purpose of any legal proceedings;

- (b) in any other part of Her Majesty's dominions or in the Republic of Ireland, before any court, judge, justice of the peace or any officer authorised by law to administer an oath there for the purpose of any legal proceedings; and
- (c) elsewhere, before a commissioner for oaths, notary public, judge or magistrate.

(2) Any document purporting to have affixed, impressed or subscribed thereto or thereon the seal or signature of any person authorised by paragraph (1) above to take a declaration may be admitted by the registrar without proof of the genuineness of the seal or signature, or of the official character of the person or his authority to take the declaration.

Registrar's power to require documents, information or evidence

57. At any stage of any proceedings before the registrar, she may direct that such documents, information or evidence as she may reasonably require shall be filed within such period as she may specify.

Registrar to have power of an official referee; s. 69

58.—(1) The registrar shall in relation to the examination of witnesses on oath and the disclosure and production of documents have all the powers of an official referee of the Supreme Court.

(2) The rules applicable to the attendance of witnesses before such a referee shall apply in relation to the attendance of witnesses in proceedings before the registrar.

Hearings before registrar to be in public

59.—(1) The hearing before the registrar of any dispute between two or more parties relating to any matter in connection with an application for the registration of a mark or a registered mark shall be in public unless the registrar, after consultation with those parties who appear in person or are represented at the hearing, otherwise directs.

(2) Nothing in this rule shall prevent a member of the Council on Tribunals or of its Scottish Committee from attending a hearing in his capacity as such.

Costs of proceedings; s. 68

60. The registrar may, in any proceedings before her under the Act or these Rules, by order award to any party such costs as she may consider reasonable, and direct how and by what parties they are to be paid.

Security for costs; s. 68

61.—(1) The registrar may require any person who is a party in any proceedings before her under the Act or these Rules to give security for costs in relation to those proceedings; and she may require security for the costs of any appeal from her decision.

(2) In default of such security being given, the registrar, in the case of the proceedings before her, or, in the case of an appeal, the person appointed under section 76 may treat the party in default as having withdrawn his application, opposition, objection or intervention, as the case may be.

Decision of registrar (Form TM5)

62.—(1) When, in any proceedings before her, the registrar has made a decision, she shall send to each party to the proceedings written notice of it, and for the purposes of any appeal against that decision, subject to paragraph (2) below, the date on which the notice is sent shall be taken to be the date of the decision.

(2) Where a statement of the reasons for the decision is not included in the notice sent under paragraph (1) above, any party may, within one month of the date on which the notice was sent to him, request the registrar on form TM5 to send him a statement of the reasons for the decision and upon such request the registrar shall send such a statement; and the date on which that statement is sent shall be deemed to be the date of the registrar's decision for the purpose of any appeal against it.