

**EXPLANATORY MEMORANDUM TO  
THE TRADE MARKS RULES 2008**

**2008 No. 1797**

1. This explanatory memorandum has been prepared by the Department for Innovation Universities and Skills and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 These Rules set out the procedural and administrative requirements which apply to trade marks and trade mark applications. They modernise and replace the existing Trade Marks Rules 2000 (SI 2000/136, as amended).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Background**
  - 4.1 The existing Trade Marks Rules 2000 (“the 2000 Rules”) have been amended seven times since they came into force. The new Trade Marks Rules 2008 consolidate these changes to increase accessibility and remove existing duplication, inconsistency and possible confusion.
  - 4.2 The UK was one of the initial signatories to the Singapore Treaty on the law of Trade Marks adopted on 27 March 2006. The new Rules (in accordance with Article 14(2)(i) of the treaty) will provide trade mark applicants and proprietors with the right to a retrospective extension of time to complete an action before the UK-IPO, provided it is sought within two months of the end of the expired period.
  - 4.3 Recent amendments to the Patents Rules (SI No. 2007/3291) and Registered Designs Rules (SI No. 2006/1975) introduced new processes to make case management and evidence filing rules more flexible, efficient and proportionate for specific cases. This SI will bring the processes for trade marks into line with those rules.
  - 4.4 In accordance with section 8 of the Tribunals and Inquiries Act 1992 we have, by a communication dated 3 March 2008, consulted with the Administrative Justice and Tribunals Council on the draft Rules.
5. **Territorial Extent and Application**
  - 5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The 2000 Rules have been amended seven times since they came into force, and are thus in need of modernisation and consolidation. Some of the existing provisions have led to duplication and confusion.
- 7.2 Legal practice has moved on since the 2000 Rules came into force which is reflected in the recently amended Rules for Patents and Registered Designs. The New Rules will bring trade marks into line enabling case management to be tailored to the needs of individual cases where appropriate. This also provides an opportunity to change evidence filing procedures to reduce the filing of unnecessary evidence.
- 7.3 The new Rules include proposals to address these policy issues, as set out below:
- 7.3.1. The UK was one of the initial signatories of the Singapore Treaty on Trade Mark Law. The UK system is currently compliant with best practice as set out in this treaty with only one exception. The new Rules will correct this and provide extensions of time for trade mark applicants and owners when deadlines for most actions before the office not involving any other party have been missed.
- 7.3.2. At present more than 90% of trade marks are registered with no third party oppositions being raised. This means the registration of these marks is delayed by three months unnecessarily. Customer surveys show that many unrepresented applicants and other end users want quicker trade mark registrations. The new Rules will change the opposition period from a fixed three month period to two months, with a free extension to three months on request by a party considering opposition.
- 7.3.3. The 2000 Rules allow a 12 month cooling off period after opposition proceedings have begun. The purpose of this period is to allow time for further negotiation and settlement without a full hearing being required. This cooling off period has been successful and led to the resolution of many disputes, however there is some evidence that for many cases 12 months is not required, and for other cases it is insufficient. The new Rules will change the fixed 12 month cooling off period to an initial period of nine months, with an extension to 18 months available if both parties request it.
- 7.3.4. The 2000 Rules specify individual time periods for different actions. The new Rules will standardise time periods for opposition to:
- Alteration of registered mark
  - Removal of matter from the register
  - Change to classification
  - Amendment of regulations for collective or certification mark

These periods will now all be two months.

- 7.3.5. The 2000 Rules allow different time periods for filing counterstatements in comparable opposition and revocation actions. The new rules will change the periods for filing counterstatements to two months in all comparable actions.
- 7.3.6. Under the 2000 Rules if an applicant fails to file a counterstatement in the period allowed for responding to an opposition to their application for registration, the application is automatically refused. This is heavy handed; the new Rules will allow the Registrar to accept late defences when they are justified.
- 7.3.7. At present the Registrar may give a preliminary indication (PI) as to the likely outcome of an opposition based on relative grounds where it is identical to the earlier mark and covers the same goods and services, or there is a likelihood of confusion with a similar earlier mark covering the same goods and services. If this PI indicates an unfavourable outcome for the opponent then the opponent must file a form TM53 or their opposition will be deemed withdrawn in its entirety even if there are other grounds for opposition. The new rules will change this so that only the relative grounds on which the PI gave an unfavourable result will be deemed withdrawn.
- 7.3.8. Changes to filing of evidence and case management powers. The 2000 Rules give fixed time periods for filing evidence in each and every type of proceeding. The new Rules will give the Registrar the power to set a timetable for parties to file evidence taking account of the circumstances of each case. The new Rules will also give the Registrar power to direct the issues on which evidence is required, this will help focus evidence on relevant issues and reduce unnecessary evidence and associated costs.
- 7.3.9. Changes to evidence in opposition and invalidation proceedings. These changes will give the Registrar the power to specify periods for the filing of evidence or submissions. This will allow arguments to be submitted in circumstances where no evidence of fact is required.
- 7.3.10. Changes to evidence rounds in applications for revocation based on non-use grounds. At present a registered proprietor has two bites at filing evidence of use of his mark. This has resulted in much unproductive argument about whether the initial evidence filed by the proprietor in a particular case satisfies the first of two evidential hurdles. The new Rules will provide the proprietor with one opportunity to file the evidence they plan to rely on to defend the registration. This will mean a reduction in the usual number of evidence rounds from four to three.
- 7.3.11. Introduction of power to set aside decisions. The new Rules will provide the Registrar with the power to set aside decisions when the proprietor can prove they were unaware that their mark or application to register a mark was under attack. This will only be possible within six months of the decision to be set aside.

- 7.3.12. Changes to timing of procedural appeals which do not terminate proceedings. The new rules will only allow immediate appeals on procedural decisions at the discretion of the Registrar. These decisions will be open to appeal at the end of proceedings. This is in line with Community Trade Mark Regulation 40/94 which appears to work satisfactorily in relation to Community trade mark proceedings.
- 7.3.13. Introduction of respondent's notice in appeals to the Appointed Person. This notice will provide a mechanism for respondents to appeal against the Registrar's decisions by requesting that the decision be upheld on additional or different grounds to those given by the Registrar. The Appointed Person has noted the absence of this provision in the current Rules.
- 7.3.14. Changes to published information. The new Rules will allow data provided only for information to be published on the Office's website and not in the Trade Marks Journal. This will reduce the administrative burden of creating the Trade Marks Journal and make this information more easily available to those who require it. The trade marks Forms will now be published on the Office's website instead of the Trade Marks Journal
- 7.3.15. Changes to time periods for correcting deficiencies. The new Rules will reduce the period for correcting routine data on an application or paying the application fee to one month. This is in line with standard invoicing practice and accounts for more rapid communications. Other procedural deficiencies, such as complex classification of goods or services, will continue to receive two months for correction.
- 7.3.16. Changes to the process for verification of priority claims. Where necessary, the UK-IPO will verify claims for priority using a wider range of means and will no longer require formal certification for all claims. This is in line with the practice at OHIM.

#### Consultation

- 7.4. A 12 week public consultation exercise was run from 3 March to 27 May 2008. In advance of this formal consultation outline proposals were discussed with key stakeholders, namely the Chartered Institute of Patent Attorneys (CIPA) and the Institute of Trade Mark Attorneys (ITMA) in January. The outcomes of these discussions were used to develop the proposals for consultation.
- 7.5. 13 responses were received to the formal consultation exercise. These responses come from four professional representative bodies for trade mark attorneys and solicitors, four firms of trade mark attorneys and solicitors, an individual trade mark attorney, a multinational company with a very substantial trade mark portfolio and other interested parties including, licensing representatives and an Appointed Person. A full summary of the responses received and how these were reflected in the final proposal is available on the office's website at <http://www.ipo.gov.uk/response-tmrules.pdf>. An outline of responses to key proposals is given below.

- 7.6. Many proposals received clear support. 90% of responses were in favour of a more flexible cooling off period and almost 90% supported a period 9 months, extendible to 18. More than 75% of responses supported proposals to change evidence rounds in non-use cases. 66% of responses supported proposals for changing the timing of interim appeals, with the objections being around which decisions are considered determinative. The UK -IPO will initially take a broad view on this. 75% of responses supported changes to publication of data for information although concerns were expressed by one data licensee and these will be taken on board. 75% of respondents supported changes to the verification of priority claims.
- 7.7. Some proposals proved more contentious:
- 7.7.1. Address for service changes. 57% of responses agreed the proposed wording but objected to the principle, the rest made comments challenging need to change. In response we have decided not to pursue this change in this consolidation.
- 7.7.2. Reduction of opposition period to six weeks coupled with a requirement to file a form to extend period to three months. 83% of formal responses from mostly legal professional users stated that a six week period is too short. Informal consultation with mostly end user customers of the office indicated that 91% supported proposals for a shorter but extendible opposition period in order to benefit from faster registration in most cases.
- 7.7.3. 45% of formal responses felt that a fixed two month period combined with extendible cooling off period would provide sufficient opportunity to avoid and resolve litigation, 36% disagreed. The remaining respondents expressed no clear view about this proposal. In conjunction with business support for a shorter but extendible opposition period and the clear view of legal professionals that six weeks is too short a period we intend to introduce an initial opposition period of two months, extendible as of right to three.
- 7.7.4. Provision to set aside decisions. Most respondents who expressed a view supported the proposal, but there were a variety of views as to the appropriate period for permitting such applications to be made. These ranged from 2 months from the date of the original decision, to 12 months. On balance we have decided to proceed with a 6 month deadline for the making of applications to have a decision set aside.
- 7.7.5. Changes to time periods for deficiencies in applications. All responses which commented felt that the proposed minimum period of 14 days was too short. We have therefore decided to set the period as a minimum of one month.
- 7.8. In addition to the formal consultation exercise further attempts were made to obtain the views of interested parties who do not generally respond to formal consultations. This included presenting the proposals for change to the opposition period at the Office's outreach events, attended by over 250 businesses, an article in IP Insight (the office's subscription newsletter with more than 4000 recipients) and direct engagement with 12 customers of the office's Search and Advisory Service.

7.9. Following the results of these consultation exercises we have concluded that there is no significant additional burden for small firms, indeed the proposals for accelerated registration are likely to be perceived as being of greatest benefit to small firms and unrepresented applicants. It would not be beneficial to exempt small firms nor is any additional action required to assist them. Further detail is included in the Small Firms Impact Test in the attached Impact Assessment.

## **8. Impact**

8.1 An Impact Assessment is attached to this memorandum

## **9. Contact**

Allan James at the UK Intellectual Property Office (an executive agency of the Department for Innovation Universities and Skills) Tel: GTN 1214 1056 or e-mail: [Allan.James@ipo.gov.uk](mailto:Allan.James@ipo.gov.uk) can answer any queries regarding the instrument.

Summary: Intervention & Options

**Department /Agency:**

UK Intellectual Property Office

**Title:**

Impact Assessment of Trade Marks Rules 2008

**Stage:** Implementation Stage

**Version:** 1.3

**Date:** 1 July 08

**Related Publications:** Consultation Paper on Modernisation and Consolidation of the Trade Marks Rules (<http://www.ipo.gov.uk/consult-tmrules.pdf>)

**Contact for enquiries:** Paul Crawford

**Telephone:** 01633814061

What is the problem under consideration? Why is government intervention necessary?

- 1) Existing Trade Mark Rules 2000 have been amended seven times since coming into force.
- 2) Government wishes to bring UK trade mark law into line with international best practice as exemplified in the Singapore Treaty on Trade Mark Law.
- 3) The current processes for the Trade Mark Tribunal are out of line with the other registered IP rights (Patents and Designs) and also with current case management practice.
- 4) The current rules make the trade mark tribunal less efficient than it might be, and unless action is taken this will affect the UK-IPO's ability to process the substantially increased number of trade mark disputes in an acceptable timeframe.
- 5) The current trade marks rules contain some inconsistent time periods and processes which unnecessarily delay unopposed trade mark registrations

What are the policy objectives and the intended effects?

- 1) Make the Trade Mark Rules more accessible and remove duplication and provisions which are inconsistent.
- 2) Ensure UK benefits from access to global markets by remaining at forefront of international harmonisation of Trade Mark legislation.
- 3) Adopt flexible processes for the Trade Mark Tribunals, in line with other registered IP rights and current litigation practice.
- 4) Optimise the Trade Mark Rules to fit with business requirements and ensure appropriate time periods for filing claims and defences to claims.

What policy options have been considered? Please justify any preferred option.

- 1) Status Quo
- 2) Incremental Change to address specific policy needs
- 3) Consolidation of Rules including current and planned policy amendments.

The preferred option is 3). The current Rules operate reasonably but given the number of amendments made and outstanding proposals they are not particularly accessible and further incremental change would make this worse. Incremental change also increases the risk of unintended consequences from changes.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The Consolidated Rules will come into force on 1 October 2008, as they settle in they will be monitored with a more formal review in October 2009.

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.***

Signed by the responsible Minister:  
Baroness Morgan of Drefelin

.....Date: 7th July 2008

Summary: Analysis & Evidence

<b>Policy Option: 3</b>	<b>Description: Consolidation of Trade Mark Rules including currently planned policy amendments.</b>
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<b>COSTS</b>	<b>ANNUAL COSTS</b>	<p>Description and scale of <b>key monetised costs</b> by 'main affected groups'</p> <p>These proposals will not affect the UK-IPO's fee structure so the direct cost of a registering a Trade Mark or of opposing or cancelling the registration of a mark owned by someone else will be unaffected. Some changes may affect business volumes but this was not raised as an issue in responses to the public consultation.</p> <p>There will be some additional costs arising from the introduction of new forms, details of these calculations are provided in the evidence base.</p> <p>Addition of form TM7a = £20,000 p.a. Addition of form TM9e = £1,250 p.a.</p>	
	<b>One-off (Transition)</b>		<b>Yrs</b>
	£		
	<b>Average Annual Cost</b> (excluding one-off)		
	<b>£ 21,250</b>		
<b>Total Cost (PV)</b>		<b>£ 21,250</b>	
<p>Other <b>key non-monetised costs</b> by 'main affected groups' Proposed changes in opposition proceedings will add an additional form where additional time is required, however this will have no fee. Further, it can be avoided altogether if opposition is lodged within the standard 2 month period allowed. Changes to time periods may present some non monetised costs but these are difficult to assess.</p>			

<b>BENEFITS</b>	<b>ANNUAL BENEFITS</b>	<p>Description and scale of <b>key monetised benefits</b> by 'main affected groups'</p> <p>All benefits will apply to all users of the application or opposition process. Details of these calculations are provided in the evidence base.</p> <p>Reduction in non-use evidence rounds = £60,000 p.a. Remove requirement for priority certification = £24,000 p.a.</p>	
	<b>One-off</b>		<b>Yrs</b>
	£		
	<b>Average Annual Benefit</b> (excluding one-off)		
	<b>£ 103,500</b>		
<b>Total Benefit (PV)</b>		<b>£ 103,500 p.a.</b>	



Other **key non-monetised benefits** by 'main affected groups' 90% of Trade Marks are registered unopposed. Proposed changes would accelerate the registration of these Marks by one month. A survey of users and potential users of the UK-IPO indicates that some customer groups desire quicker registration. Faster trade mark registration should bring greater certainty to business planning for new products and services. This was borne out by business responses to the consultation process for these Rules.

Proposals should reduce the evidentiary burden of some opposition and invalidation cases through more effective case management. Some of these benefits, such as a reduction in the number of evidence rounds in non use proceedings, have been monetised, the others cannot easily be monetised.

Key Assumptions/Sensitivities/Risks: We assume that changes to optimise the process and shorten times to registration will not adversely affect existing application rates. There is sensitivity amongst some agents that quicker registrations risks a reduction in the quality of the register and an increase in post registration applications for invalidation. However no compelling evidence of this has been presented; and other trade mark offices operate effectively with fixed opposition periods of two months.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?		UK		
On what date will the policy be implemented?		1 <sup>st</sup> October 2008		
Which organisation(s) will enforce the policy?		UK-IPO		
What is the total annual cost of enforcement for these organisations?		£ 0		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		N/A		
What is the value of the proposed offsetting measure per year?		£ 0		
What is the value of changes in greenhouse gas emissions?		£ 0		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

<b>Impact on Admin Burdens Baseline</b> (2005 Prices)				(Increase - Decrease)
Increase of	£ 21,250	Decrease	£ 103,500	<b>Net</b> £ -82,250

Key:	Annual costs and benefits: Constant Prices	(Net) Present Value
Evidence Base (for summary sheets)		

## Summary

The UK Intellectual Property Office (UK-IPO) is an executive agency of the Department for Innovation, Universities and Skills (DIUS). UK-IPO is responsible, amongst other things for statutory registration and grant of intellectual property rights namely patents, registered designs and trade marks. The UK-IPO is internationally well regarded and places

considerable importance on having up to date legislation as indicated by the recent consolidations of the Patents Rules 2007 and Registered Designs Rules 2006. The Trade Mark Rules were last consolidated in 2000 and have been amended seven times since.

## **Proposal**

UK-IPO is proposing to consolidate the Trade Marks Rules with effect from 1 October 2008. The four policy objectives and proposals to deliver them are set out below:

1) Make the Trade Mark Rules more accessible and remove unnecessary duplication and provisions which are inconsistent.

This will involve a consolidation of the Trade Mark Rules 2000 to incorporate all amendments, thus increasing clarity and accessibility. It will also include changes such as making the rules gender neutral and adopting a more modern style of drafting. Anecdotal feedback from customers is supportive of a consolidation exercise.

2) Ensure UK benefits from access to global markets by remaining at forefront of international harmonisation of Trade Mark legislation

The UK was an initial signatory to the Singapore Treaty on Trade Mark Law. This Treaty sets minimum standards for trade mark legislation and the UK supports its adoption. In order to fully comply the UK will need to make one change to the existing Rules, and this consolidation exercise is a suitable vehicle to make this change. The necessary change is set out in new rule 77, it will not present any cost or administrative burden to users, but will be of benefit to them in dealings with the Office.

3) Adopt flexible processes for the Trade Marks Tribunal, in line with other registered IP rights and current litigation practice.

The recent Registered Designs and Patents Rules (2006 and 2007 respectively) have introduced general provisions to cover the filing of evidence and case management of tribunals. These provisions are in line with current case management practice and the UK-IPO proposes they are also adopted in the Trade Mark Rules. This change will not present any additional costs, it will be of benefit to users by bringing greater coherence to provisions across registered IP rights.

4) Optimise the Trade Mark Rules to fit with business practices and ensure appropriate time periods for filing claims and defences to claims

In August 2006 the Patent Office commissioned a customer survey from IFF Research Ltd. This survey segmented the Office's customer base and identified the key things each group of customers or potential customers is looking for from the Office. :

This survey indicates a substantial desire for a quick process, particularly from potential customers with a preference for online interaction with the office, representing around 10% of the survey sample.

This analysis is further borne out by the responses to the consultation on Fast Track Examination of Trade Marks conducted in 2007. A number of respondents to that consultation

suggested that the value of the Fast Track examination service would be substantially increased if the three month opposition period which follows examination was reduced.

### Appropriate time periods for filing claims and defences

In preparation of this proposal UK-IPO held informal discussions with a number of key trade mark customers, particularly trade mark attorneys. In discussion these customers agreed that it would make sense for time periods to be consistent where the actions required are equivalent, e.g. filing of opposition counterstatements and post cancellation actions. Following consideration of the responses to the public consultation exercise it has been decided that two months would be appropriate. We do not anticipate that this standardisation will present any additional cost as there is no change in the action required. However, as this will accelerate the registration process it will be a benefit to applicants for new trade marks.

The proposal to introduce more flexible cooling periods in opposition proceedings should lead to some cases being resolved more quickly and an even higher proportion of cases being resolved without continued litigation.

The new rules also include a proposal to restrict the timing of some appeals against interim decisions of the registrar. This proposal should reduce by at least 50% the number of such appeals that parties feel it necessary to bring as part of their appeal against the registrar's final decision (it being assumed that a party will have no need to appeal an interim decision against them on a point if their case succeeds despite it). At present there are around 6 appeals per year against interim decisions. The increase in the number of cases coming before the Office suggests that this will grow to around 20 per year over the next few years. The proposed change should obviate the need for, and the delay caused by, at least half of these. Consultation responses were supportive of this proposal, with the proviso that a broad view is taken when considering which decisions could be determinative of the proceedings and therefore deserving of an interim appeal.

The proposal will not prevent anyone from appealing any decision which has a material and adverse effect on them. Consequently, we do believe that there are any human rights issues.

## **Consultation**

A 12 week public consultation exercise was run from 3 March to 27 May 2008. In addition to this further attempts were made to obtain the views of interested parties who do not generally respond to formal consultations. An outline of these consultations and the responses is included in the explanatory memorandum and fuller detail is available in the response document published on the UK-IPO website at <http://www.ipo.gov.uk/response-tmrules.pdf>.

## **Specific Impact Tests**

### Competition Assessment

Questions 1-4 below raise the issues considered under the competition assessment. As indicated in the answers the proposed approach will not have a substantial impact on competition.

Do these proposals:

1. Directly limit the number or range of suppliers?

None of the proposals made will materially change the nature of the protections provided by a Trade Mark registration. The proposals will also not affect access to a Trade Mark registration.

2. Indirectly limit the number or range of suppliers?

The proposals do not indirectly affect the number or range of suppliers.

3. Limit the ability of suppliers to compete?

The proposals will not affect suppliers' ability to compete.

4. Reduce suppliers' incentives to compete vigorously?

These proposals will change elements of the mechanics of the Trade Mark system. However, there are no changes proposed which will affect access to, scope or cost of Trade Mark registration.

### Small Firms Impact Test

The proposed changes do not materially affect access to or the cost of trade mark registration. Accelerated registration will appeal to some small businesses as they wish to be able to respond rapidly to business challenges, including trade mark protection. Small firms will also be a significant beneficiary of the consolidation as the new Rules will be more accessible to general users as well as trade mark attorneys. Consolidation should also reduce the cost of familiarisation with the Trade Mark Rules, which will benefit small firms.

During the public consultation the proposed changes were raised at UK-IPO's outreach events, published in IP Insight (the UK-IPO's subscription newsletter sent to 4000 interested parties, including small businesses) and through the UK-IPO website, which is the first point of contact for a small business with the office. In addition the key proposal which is likely to be of benefit to small businesses was discussed with customers of the UK-IPO's Search and Advisory Service (SAS). These customers include small businesses and were strongly supportive with 11 of the 12 customers indicating a preference for a shorter opposition period, extendible as of right for no charge.

Overall we conclude that the proposals will have no additional adverse impact on SMEs, indeed proposals to accelerate registration of unopposed marks and consolidate the Rules are likely to be of particular benefit to SMEs and unrepresented applicants.

### Legal Aid

The proposed changes will not affect legal aid issues.

### Sustainable Development.

The proposed changes will not affect sustainable development issues significantly.

### Carbon Assessment

Most of the proposed changes will not have any significant impact on the carbon footprint of the UK-IPO or a Trade Mark application.

### Other Environment

There are no other substantial environmental impacts of the proposed changes.

### Health Impact Assessment

There is no health impact of the proposed changes.

### Race Equality

There is no race equality impact of the proposed changes.

### Disability Equality

There is no disability equality impact of the proposed changes.

### Gender Equality

There is no gender impact of the proposed changes.

### Human Rights

There is no human right impact of the proposed changes.

### Rural Proofing

There are no additional rural impacts of the proposed changes.

### **Admin Burdens**

The new Rules will reduce the burden of revocation proceedings on grounds of non use by reducing the number of evidence rounds from four to three. Around 250 non use revocation actions are dealt with each year, we estimate that the cost of an average evidence round in non-use cases is £600 so removing one round of evidence is a saving of £600. We are observing a slight decline in the number of non use cases so a conservative estimate of the overall saving is £600 per case for 100 cases, a total saving of £60,000.

At present applications for priority have to be certified, the UK-IPO charge for a certified copy is £30 and around 800 cases per year file claims for priority, other offices' charges are comparable. Under the proposed new rules only a negligible number of exceptional cases would require certification, thus there will be a reduction in burden of £24,000.

Other changes to admin burdens arise from changes to the fees regime. Form TM54 will be abolished, this contributes to DRID 10580, based on 2007 form logs the TM54 represents 8% of this burden equating to around £19,500. We are also proposing the introduction of a new form, of comparable complexity to the TM54. This form is the TM7a and like the TM54 it will have no associated fee. It is difficult to accurately predict volumes, but it would be related to the TM7, a cautious estimate is around double the volume. The burden of the TM7 is currently set out in DRID 10621. The form TM7a is considerably simpler than the TM7 so the actual burden of completion would be around 1/5<sup>th</sup> that of the TM7. On a per form basis the TM7 has a burden of around £50, so we propose a burden of £10 for the TM7a. Assuming around 2000 forms are filed this will give a new burden of around £20,000. Two other new forms will be introduced; however both of these are likely to have low uptakes. Firstly the TM9e will be used for parties to request and extension to the cooling off period. 250 cases per year currently make use of the cooling off period, although data for 2008 indicates a substantial increase, which is to be expected considering the increase in opposition rates. We have no evidence on how many of these would require more than nine months so an initial estimate is 50%, i.e. 125 cases per annum. The TM9e will be a simple form with no associated fee, its burden will be comparable to the TM7a, £10 per form, and this gives an indicative burden of £1250 p.a. given the size of this burden it is unlikely to be significant even if the volume of forms increases substantially. The other new form will be the TM29, this will be used to request a decision is set aside under Rule 43. Use of the TM29 is unlikely to be more than 6 cases per year so the associated burden is negligible. All other burdens will be the same as for the Trade Mark Rules 2000.