

SCHEDULE 3

Other amendments to the 1994 Act

Meaning of “earlier trade mark”

- 4.—(1) Section 6(1) is amended as follows.
- (2) In subsection (1)(a)—
 - (a) after “registered trade mark” omit “,” and insert “or”;
 - (b) omit “European Union trade mark or international trade mark (EC)”.
- (3) After subsection (1)(a) insert—

“(aa) a comparable trade mark (EU) or a trade mark registered pursuant to an application made under paragraph 25 of Schedule 2A which has a valid claim to seniority of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired;”.
- (4) Omit subsection (1)(b).
- (5) In subsection (1)(ba)(i)—
 - (a) before “has been converted” insert “prior to exit day”; and
 - (b) for “within paragraph (b) from an earlier trade mark” substitute “of an earlier registered trade mark or protected international trade mark (UK) even where the earlier trade mark has been surrendered or its registration has expired”.
- (6) After subsection (1) insert—

“(1A) In subsection (1), “protected international trade mark (UK)” has the same meaning as in the Trade Marks (International Registration) Order 2008.”
- (7) In subsection (2) omit “or (b)”.
- (8) After subsection (2) insert—

“(2A) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made pursuant to paragraph 25 of Schedule 2A and which if registered would be an earlier trade mark by virtue of subsection (1)(aa), subject to its being so registered.”

(1) Section 6 was amended by [S.I. 1999/1899](#), regulation 13(1), [S.I. 2004/2332](#), regulations 2 and 4, [S.I. 2016/299](#), the Schedule, paragraph 1 and [S.I. 2018/825](#), regulations 7.