

MAJOR REFORM OF TRADE MARK LAW

Minister for Business, Enterprise and Innovation, Heather Humphreys TD, has introduced an overhaul of Irish trade mark law that will lead to lower costs and increased legal certainty for business. This is the first major reform of trademark law in Ireland in over 20 years. The Statutory Instruments transposing the Directive came into effect on 14th January 2019.

Why Introduce Changes?

The introduction of changes to the law follows an EU Directive issued to harmonise the national laws of EU Member States. It is hoped that this will reduce costs, provide greater legal certainty and streamline procedures in relation to trade marks. The changes will also support anti-counterfeiting measures and provide up to date means by which to protect a trade mark.

Irish SME's generally use national systems as they don't see the need to protect their trade mark at a European level however, the new laws will achieve greater parallelism with the EUTM system and will facilitate cooperation between the Intellectual Property Offices of each member state and the European Intellectual Property Office.

The Minister for Training, Skills, Innovation, Research and Development, John Halligan T.D. said: "This modernisation of Irish and EU trade mark law is a positive step forward as it aims to ensure that the trade mark system continues to remain effective in meeting the needs of business as technology develops."

Details of Statutory Instruments

Minister Humphreys signed four Statutory Instruments which transpose Directive (EU) 2015/2436 of the European Parliament and of the Council to approximate the laws of Member States relating to trade marks (Recast).

1. S.I. No. 561 of 2018 European Union (Trade Marks) Regulations 2018

These Regulations, made pursuant to the European Communities Act, 1972, amend and extend certain provisions of the Trade Marks Act 1996 to give statutory effect in the State to Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 amending Directive 2008/95/EC relating to trademarks and to certain provisions of Council Regulation (EU) 2017/1001 of 14 June 2017, on the European Union Trade Mark.

2. S.I. No. 562 of 2018 Trade Marks (Amendment) Rules 2018

This Statutory Instrument primarily transposes procedural matters laid down in Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 and thereby amends and extends certain provisions of secondary Irish Trade Mark legislation, namely, the Trade Marks Rules 1996.

3. S.I. No. 563 of 2018 Trade Marks Act, 1996 (Community Trade Mark) (Amendment) Regulations 2018.

These Regulations amend certain technical provisions in the Community Trade Mark Regulations 2000 (S.I. 229/2000) ("the CTM Regulations"). The amendments are for the purpose of giving effect to technical changes in certain provisions and changes in terminology arising from Regulation (EU) No. 2017/1001 of the European Parliament on the European Union Trade Mark. Under Council Regulation 2017/1001, it is no longer possible for applicants for EU trade marks to file their applications with a national office as all applications must now be filed directly with the European Union Intellectual Property Office. Therefore, the European Communities (Community Trade Mark) Regulations, 1996 (S.I. No. 10/1996), which provides for the charging of a receiving or handling fee for receiving and forwarding EU trade mark applications to the European Union

Intellectual Property Office, is revoked in these Regulations.

4. S.I. No. 564 of 2018 Patents, Trade Marks and Designs (Fees) (Amendment) Rules 2018 This Statutory Instrument introduces amendments to the Patents, Trade Marks and Designs (Fees) Rules 2001 (S.I. No. 482 of 2001).

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