

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Industry, Science and Technology

*Trade Marks Act 1995*

*Trade Marks Regulations 1995*

*Trade Marks Amendment (Division of International Registrations and Other Measures)  
Regulations 2019*

### **Legislative Authority**

Subsection 231(1) of the *Trade Marks Act 1995* (“Act”) provides that the Governor-General may make regulations prescribing matters required or permitted by Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 189A of the Act empowers the making of regulations for such matters as are necessary to enable the performance of the obligations of Australia, or to obtain any advantage or benefit, under the *Protocol Relating to the Madrid Agreement concerning the International Registration of Marks* signed by Australia at Madrid on 28 June 1989 (“Madrid Protocol”).

The Act does not specify any conditions that must be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purpose of the *Legislation Act 2003*.

### **Purpose of the Regulations**

The purpose of the *Trade Marks Amendment (Division of International Registrations and Other Measures) Regulations 2019* (“Regulations”) is to amend the *Trade Marks Regulations 1995* (“Trade Marks Regulations”) to provide for the dividing of international registrations designating Australia (“IRDA”) into divisional IRDAs, and to update or make clearer several references to international arrangements concerning protection of trade marks.

Schedule 1 to the Regulations amends the Trade Marks Regulations to permit holders of IRDAs pending before the Registrar of Trade Marks (“Registrar”) to request the creation of divisional IRDAs for some of the goods or services in the parent IRDAs.

Australia is a Contracting Party to the Madrid system for the international registration of trade marks. The Madrid system is governed by the Madrid Protocol as well as by the *Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol relating to that Agreement* (“Common Regulations”).

In February 2019, amendments to the Common Regulations will come into force to require a Contracting Party that allows division of domestic applications to also allow division of international registrations designating that country. The Regulations will amend the Trade Marks Regulations to comply with the amended Common Regulations.

Schedule 2 to the Regulations, Parts 1 and 2, amend the Trade Marks Regulations to correct an error and to make its provisions clearer and more compliant with modern drafting practice. It does not make any substantive changes to the effect of the provisions.

Schedule 3 to the Regulations, Parts 1 and 2, replace the occurrences in the Trade Marks Regulations of the defined expression “Common Regulations” with the defined expression “Madrid Regulations”: the Regulations under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as in force on 1 February 2020. This follows from amendments to the Common Regulations to rename them with effect from 1 February 2020.

Details of the Regulations are set out in the Attachment.

### **Commencement of the Regulations**

The Regulations commence as follows:

Sections 1 to 4, and Schedule 2, Parts 1 and 2, commence on the day after the Regulations are registered on the Federal Register of Legislation. These are technical amendments which do not require changes to existing systems.

Schedule 1 commences on the day after the end of the period of 6 months beginning on the day the Regulations are registered on the Federal Register of Legislation. This is to give stakeholders enough time to make any necessary changes to their IP strategy and filing systems, as well as to allow IP Australia time to change the administrative processes and IT systems for IRDAs.

Schedule 3, Parts 1 and 2, commence on 1 February 2020, when the renaming of the Common Regulations takes effect.

## ATTACHMENT

### **Details of the *Trade Marks Amendment (Division of International Registrations and Other Measures) Regulations 2019***

#### **Section 1 – Name**

This section identifies the Regulations as the *Trade Marks Amendment (Division of International Registrations and Other Measures) Regulations 2019*.

#### **Section 2 – Commencement**

This section provides for the Regulations to commence as follows:

- Sections 1 to 4, and Schedule 2, Parts 1 and 2, commence on the day after the Regulations are registered on the Federal Register of Legislation.
- Schedule 1 commences on the day after the end of the period of 6 months beginning on the day the Regulations are registered on the Federal Register of Legislation.
- Schedule 3, Parts 1 and 2, commence on 1 February 2020, when the renaming of the Common Regulations takes effect.

#### **Section 3 – Authority**

This section provides that the *Trade Marks Amendment (Division of International Registrations and Other Measures) Regulations 2019* are made under the *Trade Marks Act 1995*.

#### **Section 4 – Schedules**

This section provides that each instrument that is specified in a Schedule to this instrument is amended as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## **Schedule 1—Amendments relating to the division of international registration**

This Schedule amends the Trade Marks Regulations to provide for the dividing of IRDAs into divisional IRDAs. The holder of an IRDA pending before the Registrar (“parent IRDA”) would be able to request the creation of a divisional IRDA for that trade mark for some of the goods or services in the parent IRDA. On the creation of a divisional IRDA, the goods or services listed in it would be removed from its parent IRDA, so dividing them between the two IRDAs.

This gives holders of IRDAs the opportunity to divide their IRDAs, just as applicants for registration of trade marks in Australia can now divide their applications. By dividing their IRDAs, holders of IRDAs can obtain quicker protection of their trade marks for those goods or services that the Registrar considers can be protected, but still have examination continue for those goods or services the Registrar considers should be refused protection. While examination continues, holders of IRDAs have extra time to gather and provide evidence to support protection of the divided goods or services, just as applicants for registration of trade marks can.

### *Trade Marks Regulations 1995*

Items 1, 2: definitions of the expressions “date of international registration” and “date of recording”

These items repeal the existing definitions of the expressions “date of international registration” and “date of recording” and substitute new definitions that apply to IRDAs generally and to divisional IRDAs created under new regulation 17A.35AD (notes on item 5).

The existing definition in regulation 17A.2 of the expressions “international registration designating Australia or IRDA” defines an IRDA to be a request for extension to Australia of the protection resulting from the international registration of a trade mark made under one of the following provisions:

- Article 3ter(1) of the Madrid Protocol (“Article 3ter(1) request”). This request must be made in the application for international registration of the trade mark
- Article 3ter(2) of the Madrid Protocol (“Article 3ter(2) request”). This request can be made subsequently to the international registration of the trade mark. It is commonly referred to as a subsequent designation.

Under the existing definitions of the expressions “date of international registration” and “date of recording”, the relevant date for the IRDA depends on what type of request the IRDA is:

- An Article 3ter(1) request has the *date of international registration*, which is the date recorded in the International Register as the international registration date for the trade mark.
- An Article 3ter(2) request has the *date of recording*, which is the date recorded in the International Register as the recordal date for the request for the subsequent designation of Australia. This date can be many years after the date of international registration.

Paragraphs (a) of the substitute definitions continue to do just what the existing definitions do. That is, together they continue to provide the relevant dates for trade marks that are the subject of IRDAs generally.

Paragraphs (b) of the substitute definitions provide the relevant dates for trade marks that are the subject of divisional IRDAs created under new regulation 17A.35AD, inserted by item 5. A divisional IRDA is taken to be the same type of request as its parent IRDA: new paragraph 17A.35AD(5)(a) or (b) as the case requires. Both a parent IRDA and the divisional IRDA must relate to the same trade mark: new subregulation 17A.35AA(1), inserted by item 5. Accordingly, the trade mark that is the subject of the divisional IRDA has the same date as the parent IRDA does:

- If the parent IRDA has a date of international registration, then the divisional IRDA is taken to have that date of international registration.
- If the parent IRDA has a date of recording, then the divisional IRDA is taken to have that date of recording.

Paragraphs (b) of these definitions operate recursively. This is because a divisional IRDA can be a parent IRDA in its turn: new subregulation 17A.35AA(3) inserted by item 5. The relevant date for any divisional in a chain of divisionals is that of the founding IRDA: that is, the parent IRDA that is not a divisional IRDA, as indicated in the note beneath the regulations. This ensures that the holders of IRDAs are treated comparably with applicants for registration of trade marks in Australia who can file chains of divisional applications.

#### Item 3: inserting definitions of several new expressions used in Part 17A

This item inserts new definitions of expressions used in Part 17A, particularly by reference to expressions defined in new regulations 17A.35AA and 17A.35AD (notes on item 5):

- “divided goods or services”, in relation to a divisional request, has the meaning given by subregulation 17A.35AA(1)
- “divisional international registration” of a trade mark means registration of the mark by the International Bureau in accordance with rule 27bis(4) of the Common Regulations (notes on item 8 in Schedule 2, Part 1).
- “divisional IRDA” has the meaning given by subregulation 17A.35AD(4)
- “divisional request” has the meaning given by subregulation 17A.35AA(1)
- “parent goods or services”, in relation to a divisional request, has the meaning given by subregulation 17A.35AA(1).
- “parent IRDA” has the meaning given by subregulation 17A.35AA(1).
- “pending”, in relation to an IRDA, has the meaning given by regulation 17A.4A (notes on item 4)

#### Item 4: Meaning of “pending”

This item inserts new regulation 17A.4A to explain the meaning of the expression “pending” for IRDAs. This is by analogy with section 11 of the Act, which provides that an application for registration of a trade mark in Australia is pending from its filing at the Trade Marks Office until consideration of the application is finished, or an enforceable IP right is created under the trade marks legislation. The differences between the two provisions are due to the requirements of the Madrid system.

An IRDA is pending from the time that the Registrar receives the International Bureau's notification of the IRDA until consideration of the IRDA is finished, when the earliest of one of the following occurs:

- a) or b) At the end of examining the IRDA, the Registrar wholly rejects it under subregulation 17A.24(3). The IRDA is pending until either the period for appealing the decision ends without an appeal being made (a), or an appeal has been finally determined and the Registrar's decision to reject the IRDA is affirmed (b).
- c) The Registrar exercises discretion under paragraph 17A.34H(4)(b) to refuse protection in respect of all the goods and services listed in the IRDA, as the holder has not filed a notice of intention to defend an opposition. There is no right of appeal, as the holder has conceded or abandoned the opposition proceedings.
- d) or e) The Registrar refuses protection of the trade mark for all the goods or services listed in the IRDA under regulation 17A.34N, as the result of a successful opposition. The IRDA is pending until either the period for appealing the decision ends without an appeal being made (d), or an appeal has been finally determined and the Registrar's decision to refuse protection is affirmed (e).
- f) The trade mark that is the subject of the IRDA becomes a protected international trade mark at the relevant time under regulation 17A.36. At this time, an enforceable IP right is created under the trade marks legislation.

#### Item 5: Divisional requests and divisional IRDAs

This item inserts new regulations 17A.35AA–17.35AD into Division 3 of Part 17A setting out how holders of IRDAs can request the creation of divisional IRDAs, and what effect those divisional IRDAs have.

#### **International process for creating divisional international registrations**

New rule 27*bis* of the Common Regulations sets out how a holder of an international registration can request division of the international registration in respect of a designated Contracting Party. The holder must send the divisional request to the trade marks office of that Contracting Party ("Office"). The Office must check that the divisional request meets its national law regarding divisionals, including payment of national fees. Once the Office is satisfied that the divisional request meets its national requirements, it must forward the request to the International Bureau. In the meantime, the holder must also pay the International Bureau its fee of 177 Swiss francs for creating the divisional international registration. This is separate from the national fee paid to the Office.

When the International Bureau receives the divisional request, it checks that it meets the requirements of rule 27*bis* of the Common Regulations, including that the holder has paid the International Bureau its fee. If the divisional request meets those requirements, the International Bureau creates the divisional international registration and informs the Office and the holder. The divisional international registration only has effect in respect of the designated Contracting Party.

## **Divisional requests**

New regulation 17A.35AA provides that the holder of an IRDA that is still pending in Australia (notes on item 4) can make a divisional request for some, but not all, of the goods or services listed in the IRDA: “the parent IRDA”. The goods or services listed in the parent IRDA are referred to as the “parent goods or services”. The goods or services listed in the divisional request are referred to as the “divided goods or services”.

The divisional request is made through the Trade Marks Office to the International Bureau. The request has no immediate effect on anyone’s rights in Australia: it is not an IRDA or an application for registration of a trade mark. It is only when the International Bureau creates the divisional international registration that there is a new IRDA (new subregulations 17A.35AD(4)-(5)).

### **How a divisional request is to be made**

New regulation 17A.35AB sets out how the divisional request is to be made:

- It must be in the approved form. That is, in the form approved by the Registrar.
- It must specify the information that the International Bureau requires under rule 27bis(1) of the Common Regulations. In particular, the divisional request must specify the divided goods or services, grouped according to the appropriate classes described in Schedule 1 to the Trade Marks Regulations. Those classes are from the International Classification of Goods and Services referred to in rule 27bis(1)(b)(v) of the Common Regulations.
- It must specify information to assist the Registrar in administering the new provisions. This information is: the holder’s address for service in Australia or New Zealand; the number of the parent IRDA in the Record of International Registrations held in the Trade Marks Office; the goods or services that are to remain in the parent IRDA when the divisional IRDA is created. This is equivalent to the information that a holder must provide when requesting division of a domestic trade mark application.
- It must be filed at the Trade Marks Office. This ensures that the new provisions for the Registrar to approve the means of filing documents will apply to divisional requests. These provisions are sections 213 and 213A of the Trade Marks Act inserted by the *Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018* Schedule 2, Part 3, Division 1, item 145, with effect on or after 25 February 2019.

On filing the divisional request, the holder must also pay the Registrar the prescribed fee of \$350 for each class of divided goods or services (notes on item 7).

### **What the Registrar must do with a divisional request**

New regulation 17A.35AC sets out what the Registrar must do with a divisional request filed at the Trade Marks Office. As soon as practicable, the Registrar must perform the functions of the Office for Australia, under rule 27bis of the Common Regulations. That is, the Registrar must check that the divisional request complies with Australia law for divisionals. In particular, the divided goods or services must be for some only of the parent goods or services. Also the divided goods or services must not overlap with the goods or services that the holder has indicated are to remain in the parent IRDA. If the divisional request is not in

order, the holder will be given an opportunity to put it in order. If the divisional request is in order, the Registrar must forward the request to the International Bureau.

### **Effect of divisional international registration**

New regulation 17A.35AD specifies the effect of the International Bureau creating the divisional international registration sought in the divisional request, and notifying it to the Registrar in accordance with rule 27bis(4)(a) of the Common Regulations.

#### *Creation of divisional IRDA*

Under subregulation 17A.35AD(4), the International Bureau's creation of the divisional international registration is taken to create an IRDA for the divided goods or services: a divisional IRDA. Several subregulations ensure that a divisional IRDA is treated as an IRDA for the purposes of the Trade Marks Regulations:

- Subregulation 17A.35AD(5) provides that a divisional IRDA is taken to be the same type of IRDA as its parent IRDA. That is, it is treated as an Article 3ter(1) request or an Article 3ter(2) request, depending on what its parent IRDA is.
- Subregulation 17A.35AD(6) provides that a divisional IRDA is taken to claim any right of priority that was claimed in the parent IRDA. This is a right of priority claimed in the parent IRDA under regulation 17A.15.
- Subregulation 17A.35AD(7) provides that the International Bureau's notification to the Registrar of the creation of the divisional international registration under is taken to be the International Bureau's notification of an IRDA.

Although the parent IRDA must be pending when the divisional request is filed, it is not necessary that it still be pending when the the divisional international registration is created: the divisional IRDA will have effect.

Once it is created, a divisional IRDA can be a parent IRDA in its turn, allowing chains of divisional IRDAs. This ensures that the holders of IRDAs are treated comparably with applicants for registration of trade marks in Australia who can file chains of divisional applications.

As discussed in the notes on items 1 and 2, the divisional IRDA has its parent IRDA's date of international registration or its parent IRDA's date of recording, depending on whether the parent IRDA is an Article 3ter(1) request or an Article 3ter(2) request. As already noted, this operates recursively, allowing chains of IRDA divisionals to have the relevant date of the founding IRDA.

#### *Effect on parent IRDA*

Subregulations 17A.35AD(2)–(3) specify what happens to the parent IRDA as a result of the International Bureau's notification of the creation of the divisional international registration.

From the day that the Registrar receives that notification, the parent IRDA is taken to not request the extension of protection to the trade mark for the divided goods or services. This leaves the parent IRDA as only requesting the extension of protection to the trade mark for what remains of the parent goods or services with the divided goods or services excluded.



If the parent IRDA is not pending when the Registrar receives notice of the creation of the divisional international registration, then the scope of the parent IRDA is not reduced by exclusion of the divided goods or services (subregulation 17A.35AD(3)). If the parent IRDA has no effect in Australia because it has been rejected or had all protection refused, and no appeal remains, its scope could not be reduced with any useful effect. If the trade mark that is the subject of the parent IRDA has become a protected international trade mark for the parent goods or services, it would create uncertainty in the Australian market-place to reduce the scope of the mark's protection.

Item 6: Application of amendments made by Schedule 1

This item provides that the amendments made by Schedule 1 to the Regulations apply in relation to an IRDA that is pending (notes on item 4) on or after commencement of Schedule 1 to the Regulations (notes on section 2). Any IRDA that is pending on or after that date may be the subject of a request to create a divisional international registration of the trade mark.

Item 7: Fee for requesting creation of a divisional IRDA

This item prescribes the fee that must be paid to the Registrar for filing a divisional request to create a divisional international registration of a trade mark in respect of divided goods or services. The amount of this fee varies with the number of divided classes of goods or services, just as the individual fee paid to the International Bureau for an IRDA varies with the classes of goods or services listed in it.

The amount of the prescribed fee is \$350 for each class of divided goods or services. This is comparable with the amount of the individual fee, which in November 2018 is 263 Swiss francs. Just as with divisional applications for registration of trade marks, divisional IRDAs will be examined anew. The effort required in examination is proportional to the range of classes of goods or services that must be searched and reported on.

## **Schedule 2—Technical Amendments**

This Schedule amends the Trade Marks Regulations to correct an error and to make its provisions clearer and more compliant with modern drafting practice. It does not make any substantive changes to the effect of the provisions.

### **Part 1 – General Amendments**

#### *Trade Marks Regulations 1995*

##### Items 1, 2, 3: definitions in regulation 2.1

Items 1, 2 and 3 amend regulation 2.1 so that the expressions “international registration”, “Madrid Protocol” and “protected international trade mark” have the meanings given by section 189A of the Act, which defines those expressions in detail. This ensures that the meanings of those expressions used in the Trade Marks Regulations always accord with those in section 189A of the Act.

Before these amendments, regulation 2.1 defined the expression “Madrid Protocol” by restating in detail the definition in section 189A of the Act, and defined the expressions “international registration” and “protected international trade mark” by referring to the meaning given by regulation 17A.2. Regulation 17A.2 in its turn defined those expressions for the purposes of Part 17A by restating the definitions in section 189A of the Act.

##### Item 4: correcting an error in regulation 8.3

This item corrects regulation 8.3 so that it refers to any of the grounds in regulation 4.15A, not the no-longer-existing grounds in subregulation 5.18(1).

Regulation 8.3 provides grounds for applying for rectification of the Register: those mentioned in subregulation 5.18(1). Subregulation 5.18(1) formerly provided additional grounds for opposing registration of a trade mark: the grounds for rejection mentioned in regulation 4.15A

However, with effect from 15 April 2013, the whole of Part 5 of the Trade Marks Regulations, including subregulation 5.18(1), was repealed and substituted. There is no provision equivalent to the repealed subsection 5.18(1) in substituted Part 5, apparently as a result of an oversight.

This item corrects that error by amending regulation 8.3 so that it points directly to the grounds in regulation 4.15A.

##### Items 5, 6: reference to regulation-making power

Item 5 amends regulation 17A.1 to make it clear that Part 17A of the Trade Marks Regulations is made for the purposes of section 189A of the Act, which empowers the making of regulations for such matters as are necessary to enable the performance of the obligations of Australia, or to obtain any advantage or benefit, under the Madrid Protocol.

Item 6 inserts a note at the end of regulation 17A.1 pointing the reader to subsection 189A(3) of the Act, which allows regulations made for purposes of section 189A of the Act to be inconsistent with the Act and to prevail over it to the extent of any inconsistency.

Item 7: definitions for the purposes of Part 17A

This item amends regulation 17A.2 to make it clear that expressions appearing in Part 17A have the meaning given by the definitions in that regulation.

Item 8: definition of the expression “Common Regulations”

This item amends the definition of the expression “Common Regulations” in regulation 17A.2 to refer to the Common Regulations as they are on 1 February 2019. This ensures that the references in Part 17A to the Common Regulations are up to date. For example, new paragraph 17A.35AC(a), inserted by item 5 in Schedule 1, refers to rule 27*bis* of the Common Regulations, which only appears in the Common Regulations from 1 February 2019. The Common Regulations as at 1 February 2019 will be made available on the World Intellectual Property Organization’s website at [http://www.wipo.int/madrid/en/legal\\_texts/](http://www.wipo.int/madrid/en/legal_texts/).

Item 9: definition of the expression “date of effect”

This item inserts a definition of the expression “date of effect” into regulation 17A.2 to make it clear that the occurrences of that expression in Part 17A have the meaning given by regulation 17A.4.

Items 10, 12: repeal of definitions

These items repeal several definitions in regulation 17A.2 that are unnecessary in the light of amendments made by this Part.

Item 10 repeals the definition of “international registration”, and item 12(b) repeals the definition of “protected international trade mark”. These definitions are unnecessary as a consequence of the amendments to regulation 2.1 to define these terms with reference to the Act (see notes on items 1 and 3).

Item 12(a) repeals the definition of “priority date” in regulation 17A.2. This is unnecessary as the definition merely restates the definition in regulation 2.1.

Item 12(c) repeals the definition of the expression “Protocol” which means the Madrid Protocol. This definition is unnecessary with Part 2 of Schedule 2 to the Regulations replacing all occurrences of the expression “Protocol” in the Trade Marks Regulations with the full expression “Madrid Protocol”.

Item 11: definition of the expression “IRDA”

This item inserts a definition of the abbreviation “IRDA” in regulation 17A.2, by cross-reference to the full expression “international registration designating Australia”.

Items 13 and 14: setting in bold italics occurrences of two defined expressions

These items sets in bold italics the occurrences of the two expressions defined in regulations 17A.3 and 17A.4. This is to make it clear to the reader that the expressions “priority date” and “date of effect” are being defined in those sections.

Item 15: making the intended meaning of subregulation 17A.4(2) clear

This item repeals and substitutes subregulation 17A.4(2) to put beyond all doubt that it operates in the same manner as subsection 72(2) of the Act, on which it was based.

Part 17A of the Trade Marks Regulations treats IRDAs and protected international trade marks in the same way as applications for registration and registered trade marks, except where the Madrid system requires otherwise.

Subregulations 17A.4(1) and (2) provide for the date of effect of the protection of a protected international trade mark (“date of effect”) by analogy with subsections 72(1) and (2) of the Act, which provide for when the Australian registration of a trade mark is taken to have had effect. Subregulation 17A.4(1) provides for the general date of effect of the protection of a protected international trade mark by analogy with the general date of registration of a registered trade mark under subsection 72(1) of the Act.

Subregulation 17A.4(2) provides a date of effect that is up to six months earlier than the general date of effect determined under subregulation 17A.4(1). This is by analogy with subsection 72(2) of the Act, which provides a date of registration that is up to six months earlier than the filing date of the application for registration in Australia. This earlier date of registration applies to those goods or services that are the subject of an earlier application for registration of the trade mark in a Convention country.

Subregulation 17A.4(2) was always intended to operate in the same manner as subsection 72(2) of the Act, and has been interpreted as such. However, its provisions could be considered to be ambiguous, and might suggest that it applies to all of the goods or services covered by the protected international trade mark. That is, it is not limited to those goods or services that are the subject of an earlier application for registration of the trade mark in a Convention country. This would be inconsistent with the treatment of registered trade marks in Australia, and is not required by the Madrid system.

The repealed and substituted subregulation 17A.4(2) puts it beyond doubt that the earlier date of effect only applies to those goods or services that are the subject of an earlier application for registration of the trade mark in a Convention country.

Items 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28: identifying subdivisions of Part 17A consistently

These items reduce inconsistency in the drafting of Part 17A by amending headings to several subdivisions in Part 17A that are currently numbered, so that they are identified by letters instead. Consequentially, several regulations referring to those subdivisions by their numbers are amended to refer to them by their letters.

Item 18: correcting an error in a note

This item amends an error in the reference to a provision of the Common Regulations in the note to subregulation 17A.15(2), so that it correctly refers to Rule 9(4)(a)(iv) of the Common Regulations.

**Part 2—Amendments substituting references to Protocol with references to Madrid Protocol**

*Trade Marks Regulations 1995*

This Part amends the Trade Marks Regulations to replace multiple references to the Protocol in Parts 17A and 22 with references to the Madrid Protocol. This ensures that it is clear that references are to the Madrid Protocol, not some other Protocol. Item 29, the sole item in this Part of the Regulations, makes the amendments.

### **Schedule 3—Amendments relating to the Common Regulations**

This Schedule amends the Trade Marks Regulations to replace multiple references to the Common Regulations with references to the Madrid Regulations. This is to recognise the renaming of the Common Regulations which takes effect on 1 February 2020.

#### **Part 1—General amendments**

##### *Trade Marks Regulations 1995*

Item 1 repeals the definition in regulation 17A.2 of the expression “Common Regulations”.

Item 2 inserts into regulation 17A.2 a new definition of the expression “Madrid Regulations”. This means the Regulations under the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, as in force on 1 February 2020. This definition ensures that reference to the expression “Madrid Regulations” is correct and current at 1 February 2020. It also avoids confusion of references to the Trade Marks Regulations with references to that international instrument.

#### **Part 2—Amendments substituting references to Common Regulations with references to Madrid Regulations**

##### *Trade Marks Regulations 1995*

This Part amends the Trade Marks Regulations to replace multiple references to the Common Regulations in Part 17A with references to the Madrid Regulations. Item 3, the sole item in this Part of the Regulations, makes the amendments.