

EXPOSURE DRAFT



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Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2025

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Tim Ayres [DRAFT ONLY—NOT FOR SIGNATURE]
Minister for Industry and Innovation

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1 Name

This instrument is the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	The day after the end of the period of 1 month beginning on the day this instrument is registered.	
3. Schedules 2 to 5	The day after this instrument is registered.	
4. Schedule 6	The day after the end of the period of 1 month beginning on the day this instrument is registered.	
5. Schedules 7 and 8	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Trade Marks Act 1995*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Increased period for filing of notice of intention to defend

Schedule 1—Increased period for filing of notice of intention to defend

Trade Marks Regulations 1995

1 Subregulation 5.13(1)

Omit “one month”, substitute “2 months”.

2 Subregulation 9.15(1)

Omit “one month”, substitute “2 months”.

3 Regulation 17A.2 (definition of *Madrid Regulations*)

Omit “1 October 2020”, substitute “1 November 2024”.

4 Regulation 17A.2 (note 1 to the definition of *Madrid Regulations*)

Omit “2020”, substitute “2025”.

5 Subregulation 17A.34H(1)

Omit “one month”, substitute “2 months”.

6 Subregulation 17A.48Q(1)

Omit “one month”, substitute “2 months”.

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Relationship between registered trade marks and protected international trade marks **Schedule 2**

Schedule 2—Relationship between registered trade marks and protected international trade marks

Trade Marks Regulations 1995

1 At the end of regulation 17A.4

Add:

- (3) This regulation has effect subject to regulation 17A.54.

2 Paragraph 17A.54(1)(c)

Omit “all the goods and services”, substitute “some or all of the goods or services”.

3 Subregulations 17A.54(2) and (3)

Repeal the subregulations, substitute:

- (2) The date of effect of protection of the protected international trade mark in respect of particular goods or services that are covered by the registered trade mark and the protected international trade mark is taken to be the date of registration of the registered trade mark in respect of those particular goods or services.
- (3) However, subregulation (2) does not apply if the date of registration of the registered trade mark in respect of those particular goods or services is later than the date of effect of the protection of the protected international trade mark under subregulation 17A.4(1) or (2).

4 Regulation 17A.55

Repeal the regulation, substitute:

17A.55 Effect of cancellation, removal or expiry of registered trade mark

Cancellation of registration of the registered trade mark

- (1) Subregulation 17A.54(2) ceases to apply in relation to the protected international trade mark if the registration of the registered trade mark is cancelled.
- (2) Subregulation (1) does not apply if the cancellation is at the request of the registered owner.

Removal of registered trade mark

- (3) If the Registrar removes the registered trade mark from the Register in respect of particular goods or services that are covered by the registered trade mark and the protected international trade mark, subregulation 17A.54(2) ceases to apply in relation to the protected international trade mark and those particular goods or services.
- (4) Subregulation (3) does not apply if the removal is under paragraph 78(b) or 80F(b) of the Act.

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Schedule 2 Relationship between registered trade marks and protected international trade marks

Amendment or correction of entry in the Register

- (5) If, in respect of particular goods or services that are covered by the registered trade mark and the protected international trade mark, the Registrar amends or corrects an entry in the Register relating to the registered trade mark so that the registered trade mark is no longer registered in respect of those particular goods or services, subregulation 17A.54(2) ceases to apply in relation to the protected international trade mark and those particular goods or services.
- (6) Subregulation (5) does not apply if the amendment is at the request of the registered owner.

Schedule 3—Rejecting IRDA on basis of sanctions regime

Trade Marks Regulations 1995

1 At the end of subregulations 17A.24(1) and (3)

Add:

Note: Regulation 17A.28 sets out the grounds for rejecting an IRDA.

2 Subregulation 17A.28(1)

Repeal the subregulation, substitute:

Grounds under sections 39 to 44 of the Act for rejecting an IRDA

- (1) The grounds set out in sections 39 to 44 of the Act, as affected by subregulation (2), are grounds for rejecting an IRDA.

3 After subregulation 17A.28(2)

Insert:

Rejecting an IRDA on basis of sanctions regime

- (2A) A ground for rejecting an IRDA is that, if the trade mark that is the subject of the IRDA were to become a protected international trade mark, this would result in:
- (a) an asset (within the meaning of the *Autonomous Sanctions Act 2011*) being made directly or indirectly available to, or for the benefit of, a designated person or entity (within the meaning of the *Autonomous Sanctions Regulations 2011*) other than in accordance with a permit under those regulations; or
 - (b) an asset (within the meaning of the *Charter of the United Nations Act 1945*) being made directly or indirectly available to, or for the benefit of, a person or entity prescribed by regulations made for the purposes of Part 3 of that Act other than in accordance with a permit under those regulations; or
 - (c) an asset (within the meaning of the *Charter of the United Nations Act 1945*) being made directly or indirectly available to a proscribed person or entity (within the meaning of Part 4 of that Act) other than in accordance with a notice under section 22 of that Act.

4 Before subregulation 17A.28(3)

Insert:

Ground for rejecting an IRDA that is for a certification trade mark

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Schedule 4 Registrar's power to revoke acceptance of IRDA

Schedule 4—Registrar's power to revoke acceptance of IRDA

Trade Marks Regulations 1995

1 At the end of subregulation 17A.36(2)

Add "However, this subregulation has effect subject to subregulation (2AA).".

2 After subregulation 17A.36(2)

Insert:

(2AA) If:

- (a) subparagraph (2)(b)(i) or (ii) applies and before the end of the relevant period or that period as extended, the Registrar notifies the holder of the IRDA of the Registrar's intention to revoke the acceptance of the IRDA; and
- (b) at the end of the relevant period or that period as extended, the Registrar has not made a decision whether or not to revoke the acceptance of the IRDA;

then:

- (c) the trade mark that is the subject of the IRDA does not become a protected international trade mark at the end of the relevant period or that period as extended; and
- (d) if, after the end of the relevant period or that period as extended, the Registrar makes a decision to not revoke the acceptance of the IRDA—the trade mark that is the subject of the IRDA becomes a protected international trade mark when that decision is made.

Note: If the Registrar makes a decision to revoke the acceptance of the IRDA, the IRDA is taken never to have been accepted: see subregulation 17A.27(2).

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Dealing with opposition to trade mark applications or applications for removal of trade mark for non-use **Schedule 5**

Schedule 5—Dealing with opposition to trade mark applications or applications for removal of trade mark for non-use

Trade Marks Regulations 1995

1 At the end of paragraph 5.4(1)(b)

Add “, other than a decision under regulation 5.17A”.

2 At the end of Division 4 of Part 5

Add:

5.17A Dismissal of opposition for opponent’s failure to do things in relation to hearing

- (1) For the purposes of subsection 54(3) of the Act, the Registrar may dismiss an opposition if:
 - (a) the opponent has not, under subregulation 5.17(3), requested a hearing before the end of the period of 3 months beginning on the day the opponent may request a hearing; and
 - (b) the opponent has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires).
- (2) For the purposes of subsection 54(3) of the Act, the Registrar may dismiss an opposition if:
 - (a) the opponent has, under subregulation 5.17(3), requested a hearing; and
 - (b) the opponent has not paid the fee payable under item 15 of the table in subclause 1(1) of Schedule 9.

Application for review

- (3) The opponent may apply to the ART for review of a decision under this regulation to dismiss the opposition.

3 Regulation 5.20

Omit “or discontinued”, substitute “or 5.17A or is discontinued”.

4 At the end of paragraph 9.4(1)(b)

Add “, other than a decision under regulation 9.20A”.

5 At the end of Division 5 of Part 9

Add:

9.20A Registrar’s decision for applicant’s failure to do things in relation to hearing

- (1) If:

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Schedule 5 Dealing with opposition to trade mark applications or applications for removal of trade mark for non-use

-
- (a) the applicant has not, under subregulation 9.20(2), requested a hearing before the end of the period of 3 months beginning on the day the applicant may request a hearing; and
 - (b) the applicant has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires);
- the Registrar may decide to:
- (c) take the opposition to have succeeded; and
 - (d) refuse to remove the trade mark from the Register.

(2) If:

- (a) the applicant has, under subregulation 9.20(2), requested a hearing; and
- (b) the applicant has not paid the fee payable under item 15 of the table in subclause 1(1) of Schedule 9;

the Registrar may decide to:

- (c) take the opposition to have succeeded; and
- (d) refuse to remove the trade mark from the Register.

Notification of decision

- (3) The Registrar must notify the parties of the Registrar's decision under subregulation (1) or (2).

Application for review

- (4) The applicant may apply to the ART for review of a decision under subregulation (1) or (2).

6 At the end of paragraph 17A.31(1)(b)

Add “, other than a decision under regulation 17A.34MA”.

7 After regulation 17A.34M

Insert:

17A.34MA Dismissal of opposition for opponent's failure to do things in relation to hearing

- (1) The Registrar may dismiss an opposition if:
 - (a) the opponent has not, under subregulation 17A.34M(3), requested a hearing before the end of the period of 3 months beginning on the day the opponent may request a hearing; and
 - (b) the opponent has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires).
- (2) The Registrar may dismiss an opposition if:
 - (a) the opponent has, under subregulation 17A.34M(3), requested a hearing; and
 - (b) the opponent has not paid the fee payable under item 15 of the table in subclause 1(1) of Schedule 9.

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Dealing with opposition to trade mark applications or applications for removal of trade mark for non-use **Schedule 5**

Application for review

- (3) The opponent may apply to the ART for review of a decision under this regulation to dismiss the opposition.

8 Regulation 17A.35

After “regulation 17A.34B”, insert “or 17A.34MA”.

9 At the end of paragraph 17A.48B(1)(b)

Add “, other than a decision under regulation 17A.48VA”.

10 After regulation 17A.48V

Insert:

17A.48VA Registrar’s decision for applicant’s failure to do things in relation to hearing

- (1) If:
- (a) the applicant has not, under subregulation 17A.48V(2), requested a hearing before the end of the period of 3 months beginning on the day the applicant may request a hearing; and
 - (b) the applicant has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires);
- the Registrar may decide to:
- (c) take the opposition to have succeeded; and
 - (d) refuse to cease protection of the protected international trade mark.
- (2) If:
- (a) the applicant has, under subregulation 17A.48V(2), requested a hearing; and
 - (b) the applicant has not paid the fee payable under item 15 of the table in subclause 1(1) of Schedule 9;
- the Registrar may decide to:
- (c) take the opposition to have succeeded; and
 - (d) refuse to cease protection of the protected international trade mark.

Notification of decision

- (3) The Registrar must notify the parties of the Registrar’s decision under subregulation (1) or (2).

Application for review

- (4) The applicant may apply to the ART for review of a decision under subregulation (1) or (2).

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Schedule 6 Extending period for examining trade mark applications where a hearing is requested

Schedule 6—Extending period for examining trade mark applications where a hearing is requested

Trade Marks Regulations 1995

1 After paragraph 4.13(2)(c)

Insert:

- (ca) the applicant has made a request to the Registrar to be heard in relation to the application; or

2 At the end of subparagraph 4.14(3)(g)(ii)

Add “and”.

3 After paragraph 4.14(3)(g)

Insert:

- (ga) if acceptance is deferred because of paragraph 4.13(2)(ca)—at the end of the earlier of the following days:
 - (i) the day the applicant withdraws the request to be heard;
 - (ii) the day the Registrar decides to accept or reject the application; and

4 After paragraph 17A.21(2)(c)

Insert:

- (ca) the holder has made a request to the Registrar to be heard in relation to the IRDA; or

5 After paragraph 17A.22(3)(h)

Insert:

- (ha) if acceptance is deferred because of paragraph 17A.21(2)(ca)—at the end of the earlier of the following days:
 - (i) the day the holder withdraws the request to be heard;
 - (ii) the day the Registrar decides to accept or reject the IRDA; and

Schedule 7—Technical amendments

Trade Marks Regulations 1995

1 Subparagraph 4.14(3)(j)(i)

Omit “and”, substitute “or”.

2 Subparagraph 17A.22(3)(j)(i)

Omit “and”, substitute “or”.

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Schedule 8 Application provisions

Schedule 8—Application provisions

Trade Marks Regulations 1995

1 In the appropriate position in Part 22

Insert:

Division 8—Amendments made by the Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025

22.31 Application provisions—increased period for filing of notice of intention to defend

- (1) The amendment of subregulation 5.13(1) made by Schedule 1 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* applies where the publication of the acceptance of the trade mark application, as mentioned in subregulation 5.6(1), is on or after the day on which that Schedule commences.
- (2) The amendment of subregulation 9.15(1) made by Schedule 1 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* applies where the publication of the application for removal, as mentioned in subregulation 9.8(1), is on or after the day on which that Schedule commences.
- (3) The amendment of subregulation 17A.34H(1) made by Schedule 1 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* applies where the publication of the acceptance of the IRDA, as mentioned in subregulation 17A.33(1), is on or after the day on which that Schedule commences.
- (4) The amendment of subregulation 17A.48Q(1) made by Schedule 1 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* applies where the publication of the application for cessation of protection, as mentioned in subregulation 17A.48G(1), is on or after the day on which that Schedule commences.

22.32 Application provision—relationship between registered trade marks and protected international trade marks

The amendments made by Schedule 2 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* apply in relation to a registered trade mark becoming a protected international trade mark before, on or after the day on which that Schedule commences.

22.33 Application provision—rejecting IRDA on basis of sanctions regime

The amendments made by Schedule 3 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* apply

in relation to a notification of an IRDA, as mentioned in regulation 17A.12, that is received by the Registrar on or after the day on which that Schedule commences.

22.34 Application provision—Registrar’s power to revoke acceptance of IRDA

The amendments made by Schedule 4 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* apply in relation to an IRDA that is accepted on or after the day on which that Schedule commences, whether the IRDA was notified, as mentioned in regulation 17A.12, before, on or after that day.

22.35 Application provisions—dealing with opposition to trade mark applications or applications for removal of trade mark for non-use

- (1) Regulation 5.17A, as added by Schedule 5 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025*, applies in relation to a period referred to in paragraph 5.17(3)(a) that ends on or after the day on which that Schedule commences, whether the trade mark application was made before, on or after that day.
- (2) Regulation 9.20A, as added by Schedule 5 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025*, applies in relation to a period referred to in subregulation 9.20(2) that ends on or after the day on which that Schedule commences, whether the application for removal was made before, on or after that day.
- (3) Regulation 17A.34MA, as inserted by Schedule 5 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025*, applies in relation to a period referred to in paragraph 17A.34M(3)(a) that ends on or after the day on which that Schedule commences, whether the IRDA was notified to the Registrar before, on or after that day.
- (4) Regulation 17A.48VA, as inserted by Schedule 5 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025*, applies in relation to a period referred to in subregulation 17A.48V(2) that ends on or after the day on which that Schedule commences, whether the application for cessation of protection was made before, on or after that day.

22.36 Transitional provisions—dealing with opposition to trade mark applications or applications for removal of trade mark for non-use

Application for registration of a trade mark

- (1) For the purposes of subsection 54(3) of the Act, the Registrar may dismiss an opposition to the registration of a trade mark if:
 - (a) the application for the registration of the trade mark was made before the commencement of this regulation and was pending immediately before that commencement; and

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Schedule 8 Application provisions

- (b) the opponent had been able, under subregulation 5.17(3), to request a hearing before that commencement but had not done so; and
 - (c) the opponent has not, under subregulation 5.17(3), requested a hearing before the end of the period of 3 months beginning on the day on which this regulation commences; and
 - (d) the opponent has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires).
- (2) The Registrar must notify the parties of the Registrar's decision under subregulation (1).
- (3) The opponent may apply to the ART for review of a decision under subregulation (1).

Application for removal of a trade mark for non-use

- (4) If:
 - (a) an application for removal of a trade mark from the Register was made before the commencement of this regulation and was pending immediately before that commencement; and
 - (b) a notice of opposition, in relation to the application, had been filed before that commencement; and
 - (c) the applicant had been able, under subregulation 9.20(2), to request a hearing before that commencement but had not done so; and
 - (d) the applicant has not, under subregulation 9.20(2), requested a hearing before the end of the period of 3 months beginning on the day on which this regulation commences; and
 - (e) the applicant has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires);the Registrar may decide to:
 - (f) take the opposition to have succeeded; and
 - (g) refuse to remove the trade mark from the Register.
- (5) The Registrar must notify the parties of the Registrar's decision under subregulation (4).
- (6) The applicant may apply to the ART for review of a decision under subregulation (4).

Notification of IRDA

- (7) The Registrar may dismiss an opposition to an IRDA if:
 - (a) the IRDA was notified to the Registrar before the commencement of this regulation and was pending immediately before that commencement; and
 - (b) the opponent had been able, under subregulation 17A.34M(3), to request a hearing before that commencement but had not done so; and
 - (c) the opponent has not, under subregulation 17A.34M(3), requested a hearing before the end of the period of 3 months beginning on the day on which this regulation commences; and
 - (d) the opponent has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires).

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- (8) The Registrar must notify the parties of the Registrar's decision under subregulation (7).
 - (9) The opponent may apply to the ART for review of a decision under subregulation (7).

Application for cessation of protection

- (10) If:
 - (a) an application to the Registrar for cessation of protection of a trade mark that is, or may become, a protected international trade mark was made before the commencement of this regulation and was pending immediately before that commencement; and
 - (b) a notice of opposition, in relation to the application, had been filed before that commencement; and
 - (c) the applicant had been able, under subregulation 17A.48V(2), to request a hearing before that commencement but had not done so; and
 - (d) the applicant has not, under subregulation 17A.48V(2), requested a hearing before the end of the period of 3 months beginning on the day on which this regulation commences; and
 - (e) the applicant has not paid the fee payable under item 15 or 16 of the table in subclause 1(1) of Schedule 9 (as the case requires);the Registrar may decide to:
 - (f) take the opposition to have succeeded; and
 - (g) refuse to cease protection of the protected international trade mark.
- (11) The Registrar must notify the parties of the Registrar's decision under subregulation (10).
- (12) The applicant may apply to the ART for review of a decision under subregulation (10).

22.37 Application provision—extending period for examining trade mark applications where a hearing is requested

The amendments made by Schedule 6 to the *Trade Marks Amendment (International Registrations, Hearings and Oppositions) Regulations 2025* apply in relation to a request to be heard that is made on or after the day on which that Schedule commences.