

## SUBSIDIARY LEGISLATION

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THE MERCHANDISE MARKS ACT  
(CAP. 85)

### REGULATIONS

(Made under section 18A)

#### THE MERCHANDISE MARKS (AMENDMENTS) REGULATIONS, 2010

Citation  
G.N.No.  
89/2008

1. These Regulations may be cited as the Merchandise Marks (Amendments) Regulations, 2010 and shall be read as one with the Merchandise Marks Regulations, 2008 hereinafter referred to as the "principal Regulations".

Amendment  
of  
regulation 4

2. The principal Regulations are amended in regulation 4 by deleting subregulation (1) and substituting for it the following:

"(1) The Chief Inspector or an inspector may conduct an investigation *suo moto* or upon a request on payment of the prescribed fees on any breach of the provision of the Act, and may request the assistance of a police officer or any public officer."

Addition of  
regulations  
34A and  
34B

3. The principal Regulations are amended by adding immediately after regulations 34 the following new regulations:

34A-(1) A claim referred to under  
"institution  
of a claim"  
regulation 34 shall be made in Form L  
prescribed in the First Schedule and shall  
contain

*Merchandise Marks (Amendments) Regulations, 2010*

- (a) the name and address of the claimant;
  - (b) particulars of goods in dispute;
  - (c) the statement of facts and reasons in support of a claim;
  - (d) list of documents or things to be produced before the Chief Inspector; and
  - (e) other particulars as may be shown in the form.
- (2) In pursuance to subregulation (1), a claim shall be submitted to the Chief Inspector or his representative who shall endorse the date on which it was received and thereafter enter or cause to be entered into the register all relevant particulars as may be necessary to identify such claim.
- (3) Upon receiving a claim, the Chief Inspector or his representative shall issue a notice of hearing in Form M prescribed in the First Schedule and shall specify the time, date and place where the hearing shall be conducted.
- (4) A party who has been served with notice to appear before the Chief Inspector for hearing shall acknowledge receipt of such a notice by endorsing it.
- (5) The Chief Inspector may make an order to dismiss a claim where a person who endorsed a notice of hearing fails to appear before the Chief Inspector on the day and time fixed for the hearing.
- (6) Where the claim is dismissed under subregulation (5) the claimant may, within fourteen days, from the day of dismissal apply for an order to set aside the dismissal.
- (7) The application under subregulation (6) shall be made in Form N prescribed in the First Schedule.

(8) Upon receiving the application under subregulation (6), the Chief Inspector shall, if he is satisfied on the reasons submitted under subregulation (6) cause the claimant to be heard in accordance with subregulation (3).

(9) If the Chief Inspector is not satisfied with the reasons for failure to appear as per subregulation (6) the decision to dismiss the claim shall be final.

Proceedings  
of the Chief  
Inspector on  
a claim

34B-(1) The Chief Inspector shall establish a Committee for hearing a claim.

(2) The Committee for hearing a claim shall comprise of the Chief Inspector or his representative who shall be the Chairman and other four members to be appointed by the Chief Inspector.

(3) The quorum of the Committee shall be three members of whom one shall be the Chief Inspector or his representative.

(4) The determination of any matter shall be by a majority of the votes of the members present.

(5) Without prejudice to subregulation (3), where there is a dissenting opinion of a member or members, the decision of the Chairman at the proceedings shall be final and conclusive.

(6) Where the Chairman disregards the dissenting opinion, he shall record the differing opinion and reason for his disagreement with the opinion of such other members.

(7) The decision of the Committee shall be in writing and shall contain -

(a) a brief description of the nature of the claim;

(b) a summary of all relevant evidence produced before the Committee and the reasons for accepting or rejecting the evidence;

(c) the reasons for the decision;

(d) the relief or remedy.

(8) The records and decision of the Committee shall be signed by the Chairman and the members present.

(9) The Chief Inspector or his representative may call any person to attend at the hearing and give evidence and may order any person to produce any document if he believes that such evidence or document will assist in his deliberations.

(10) The summons for attendance of witnesses shall be issued by the Chief Inspector in Form P prescribed in the First Schedule.

(11) The evidence before the Committee may be given orally on oath or by affidavit or in such other means and form as the Chairman may direct.

(12) Where the evidence is given by affidavit, the Committee may order the attendance of the deponent for cross examination.

(13) At the hearing of a claim the claimant shall state the grounds of his claim and may support them by any relevant evidence.

(14) The Chairman and members of the Committee shall be entitled at any stage of hearing to ask such questions as they consider relevant.

(15) The Committee may adjourn the hearing of a claim for the purpose of enabling the production of further evidence or for other good cause as it considers necessary on such terms as it may determine.

(16) The proceedings before the Committee shall not be bound by strict rules of evidence.”

Amendment of the First Schedule forms: 4. The principal Regulations are amended in the First Schedule by adding immediately after Form K the following new forms:

“FORM L  
STATEMENT OF CLAIM  
(Under regulation 34A)

IN THE CHIEF INSPECTOR AT CLAIM NO. YEAR IN THE MATTER OF CLAIMANT

AND RESPONDENT

1. PARTICULARS OF APPELLANT

- (a) Name: .....
- (b) Nature of business: .....
- (c) Postal address: .....
- (d) Physical address of appellant Plot: Street: Town/City: .....
- (e) Telephone No. Fax No. E-mail: .....

2. PARTICULARS OF GOODS IN DISPUTE

- (a) Goods item: .....
- (b) Container No: .....
- (c) Registration No: .....
- (d) Date of seizure: .....

3. STATEMENT OF FACTS AND REASONS IN SUPPORT OF THE CLAIM

(If space provided is not adequate attach as many additional pages as needed for the statement)

.....

4. LIST OF DOCUMENTS OR THINGS TO BE PRODUCED BEFORE THE CHIEF INSPECTOR, IF ANY

(Give brief description of each)

.....

5. NAMES OF WITNESSES, IF ANY, AND THEIR ADDRESSES:

.....  
.....  
.....

Dated this ..... day of ..... year .....

.....  
Signature of Claimant/  
Advocate for the Claimant  
Agent of Claimant

(for official use only)

6. BY SECRETARY/OFFICER-IN-CHARGE  
Date of filing claim: .....  
Signature: .....  
Official stamp of Secretary/officer-in-charge  
Signature: .....  
BY C .....

7. BY CHIEF INSPECTOR  
Service of copy of claim on Chief Inspector  
Date: .....  
Signature: .....  
Official stamp of or on behalf of the Chief Inspector

FORM M  
NOTICE OF HEARING  
(Under regulation 3(4))

IN THE CHIEF INSPECTOR AT .....  
CLAIM No. ....  
of ..... year .....

IN THE MATTER OF ..... CLAIMANT  
AND  
TO: ..... RESPONDENT  
.....  
.....  
.....

TAKE NOTICE that the above claim will be heard by the Chief Inspector on the ..... day  
of ..... Year ..... at ..... o'clock in the forenoon/afternoon  
at ..... (indicate place)  
You are accordingly required to appear before the Chief Inspector and bring witnesses with.  
If no appearance is made by you or by any person authorized by you to act on your behalf, the  
claim may be heard and decided in your absence.

Given under my hand and the seal of the Chief Inspector this ..... day  
of ..... year .....

FORM N  
APPLICATION TO SET ASIDE DISMISSAL ORDER  
(Under regulation 34A)

IN THE CHIEF INSPECTOR  
AT .....  
CLAIM NO. .... YEAR .....

IN THE MATTER OF ..... APPELLANT  
AND  
..... RESPONDENT

1. PARTICULARS OF APPELLANT

- (a) Name: .....
- (b) Nature of business: .....
- (c) Postal address: .....
- (d) Physical address of appellant  
Plot: ..... Street: ..... Town/City: .....
- (e) Telephone No. .... Fax No. .... E-mail: .....

2. PARTICULARS OF GOODS IN DISPUTE

- (a) Goods Item .....
- (b) Container No. ....
- (c) Registration No. ....
- (d) Date of seizure .....

3. STATEMENT OF FACTS AND REASONS IN SUPPORT OF THE APPLICATION  
(If space provided is not adequate attach as many additional pages as needed for the statement)

.....  
.....  
.....  
.....  
.....

G.N. No. 426 (contd.)

4. LIST OF DOCUMENTS OR THINGS TO BE PRODUCED BEFORE THE CHIEF INSPECTOR, IF ANY  
(Give brief description of each)

.....  
.....  
.....  
.....  
.....

5. NAMES OF WITNESSES, IF ANY, AND THEIR ADDRESSES:

.....  
.....  
.....  
.....  
.....

Dated this.....day of.....year.....

FORM P  
NOTICE OF WITNESS TO APPEAR  
(Under regulation 34B)

IN THE CHIEF INSPECTOR  
AT.....

CLAIM No. .... of ..... YEAR.....

IN THE MATTER OF ..... CLAIMANT  
AND ..... RESPONDENT  
TO .....  
.....  
.....  
.....  
.....



WHEREAS your attendance is required as a witness on behalf of the .....  
During the hearing of the above application, you are by this summons required to appear before  
the Chief Inspector on the ..... day of ..... year ..... at ..... o'clock  
in forenoon/afternoon and bring with you or send the following documents or thing to the Chief  
Inspector  
.....  
.....  
.....

Failure to respond to or obey this summons renders you liable to penalties under the Act  
Given under my hand and the seal of the Chief Inspector this ..... day  
of ..... year .....

Secretary ..... Date and Official stamp .....

**ACKNOWLEDGEMENT OF SERVICE OF SUMMONS**

Full name .....  
Address .....  
Date and time ..... signature .....

Amendment ..... 5. The principal Regulations are amended in the Schedule by deleting the  
of the ..... Second Schedule and substituting for it the following:  
Second .....  
Schedule .....

**SCALE OF FEES AND FINES**

*Under regulation 48*  
Compoundment fees shall be determined by the Chief Inspector but shall not exceed the sum of  
shillings eight (8) million for any single case or compoundment.

*Under regulation 35*

Submission fees shall be determined by the Chief Inspector or but shall not exceed the sum of  
shillings three (3) million.

*Under regulation 4*

Investigation fees shall be determined by the Chief Inspector but shall not exceed the sum of shillings three (3) million."

Dar es Salaam, HON. MARY M. NAGU (MP),  
28<sup>th</sup> September, 2010 *Minister for Industry, Trade and Marketing*