



BERMUDA

**TRADE MARKS AND SERVICE MARKS REGULATIONS AMENDMENT AND
VALIDATION ACT 2023**

2023 : 33

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WHEREAS it is expedient to amend the Trade Marks and Service Marks Regulations 1993 to insert the Seventh Schedule and the Eighth Schedule that provide for the 11th Edition and 12th Edition of the Nice Classification of goods and services; to cause the insertion in the Regulations of the Seventh Schedule and related provisions to

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be with retroactive effect as at 1 January 2017; to insert the Eighth Schedule to provide a new classification of goods and services with retroactive effect from 1 January 2023; to validate trade marks and service marks that have been issued on the understanding that the new Seventh Schedule and new Eighth Schedule had been duly inserted into the Regulations; and to provide for other associated matters;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Trade Marks and Service Marks Regulations 1993 (the "principal Regulations"), may be cited as the Trade Marks and Service Marks Regulations Amendment and Validation Act 2023.

Amends regulation 4 for purposes of Seventh Schedule

2 Regulation 4 of the principal Regulations is amended—

- (a) in paragraph (1), by deleting "Fifth or Sixth Schedule" and substituting "Fifth, Sixth, Seventh";
- (b) in paragraph (2)—
 - (i) by deleting the words "1 May 2013" and substituting "1 January 2017"; and
 - (ii) by inserting after "Part I of the Sixth Schedule" the following, "or Part I of the Seventh Schedule";
- (c) in paragraph (3)—
 - (i) by deleting the words "1 May 2013" and substituting "1 January 2017"; and
 - (ii) by inserting after "Part II of the Sixth Schedule" the following "or Part II of the Seventh Schedule".

Amends regulation 4 for purposes of Eighth Schedule

3 Regulation 4 of the principal Regulations is amended—

- (a) in paragraph (1), by inserting before "in accordance with regulation 5" the following "or Eighth Schedule";
- (b) in paragraph (2), by inserting at the end of that paragraph "or Part I of the Eighth Schedule";
- (c) in paragraph (3), by inserting at the end of that paragraph "or Part II of the Eighth Schedule";
- (d) in paragraph (4)—

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- (i) by deleting the words “1 May 2013” and substituting “1 January 2023”; and
- (ii) by deleting the words “Sixth Schedule” and substituting “Eighth Schedule”.

Amends regulation 5 for purposes of Seventh Schedule

4 Regulation 5 of the principal Regulations is amended—

- (a) in paragraph (1)—
 - (i) by deleting “or Fifth Schedule,” and substituting “, Fifth or Sixth Schedule”;
 - (ii) by deleting “or Sixth Schedule,” and substituting “, Sixth, Seventh ”;
- (b) in paragraph (3), by deleting “or Sixth Schedule” and substituting “Sixth, Seventh”.

Amends regulation 5 for purposes of Eighth Schedule

5 Regulation 5 of the principal Regulations is amended—

- (a) in paragraph (1), by inserting before “whether with or without” the following “or Eighth Schedule”;
- (b) in paragraph (3), by inserting before “having the same date of registration,” the following “or Eighth Schedule”.

Amends regulation 19

6 Regulation 19(1) of the principal Regulations is amended by deleting “the Sixth Schedule” and substituting “the Eighth Schedule”.

Amends regulation 20

7 Regulation 20(3) of the principal Regulations is amended by deleting “the Sixth Schedule” and substituting “the Eighth Schedule”.

Amends regulation 93 for purposes of Seventh Schedule

8 Regulation 93(1) of the principal Regulations is amended by deleting “or Sixth Schedule” and substituting “, Sixth, Seventh”.

Amends regulation 93 for purposes of Eighth Schedule

9 Regulation 93(1) of the principal Regulations is amended by inserting before “to ascertain” the following “or Eighth Schedule”.

Inserts Seventh Schedule

10 Schedule 1 has effect in relation to the insertion of the Seventh Schedule to the principal Regulations.

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Inserts Eighth Schedule

11 Schedule 2 has effect in relation to the insertion of the Eighth Schedule to the principal Regulations.

Commencement of provisions relating to Seventh Schedule and validation of registrations under Seventh Schedule

12 (1) Sections 2, 4, 8 and 10 of this Act shall be deemed to have come into operation on 1 January 2017.

(2) Where, after 1 January 2017, but before the commencement of this Act, a trade mark or a service mark was granted by the Registrar under a classification of goods and services in accordance with the Seventh Schedule to the principal Regulations, that trade mark or service mark shall be deemed to have been validly granted by the Registrar under the Seventh Schedule inserted under section 10 of this Act as from the date the trade mark or service mark was granted.

Commencement of provisions relating to Eighth Schedule and validation of registrations under Eighth Schedule

13 (1) Sections 3, 5, 9 and 11 of this Act shall be deemed to have come into operation on 1 January 2023.

(2) Where, after 1 January 2023, but before the commencement of this Act, a trade mark or a service mark was granted by the Registrar under a classification of goods and services in accordance with the Eighth Schedule to the principal Regulations, that trade mark or service mark shall be deemed to have been validly granted by the Registrar under the Eighth Schedule inserted by section 11 of this Act as from the date it was granted.

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SCHEDULE 1

(section 10)

SEVENTH SCHEDULE

(regulations 4(2), 4(3) and 20(3))

CLASSIFICATION OF GOODS AND SERVICES

PART I - GOODS

Class 1

Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

Class 2

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

Class 3

Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; non-medicated soaps; perfumery, essential oils, non-medicated cosmetics, non-medicated hair lotions; non-medicated dentifrices.

Class 4

Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles and wicks for lighting.

Class 5

Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6

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Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

Class 7

Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs; automatic vending machines.

Class 8

Hand tools and implements (hand-operated); cutlery; side arms; razors.

Class 9

Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus.

Class 10

Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for the disabled; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

Class 11

Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

Class 12

Vehicles; apparatus for locomotion by land, air or water.

Class 13

Firearms; ammunition and projectiles; explosives; fireworks.

Class 14

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Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

Class 15

Musical instruments.

Class 16

Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; artists' and drawing materials; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

Class 17

Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

Class 18

Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

Class 19

Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20

Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

Class 21

Household or kitchen utensils and containers; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

Class 22

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Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

Class 23

Yarns and threads, for textile use.

Class 24

Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

Class 25

Clothing, footwear, headgear.

Class 26

Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

Class 27

Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

Class 28

Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

Class 29

Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk and milk products; edible oils and fats.

Class 30

Coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; edible ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice.

Class 31

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Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

Class 32

Beers; mineral and aerated waters and other non-alcoholic beverages; fruit beverages and fruit juices; syrups and other preparations for making beverages.

Class 33

Alcoholic beverages (except beers).

Class 34

Tobacco; smokers' articles; matches.

PART II - SERVICES

Class 35

Advertising; business management; business administration; office functions.

Class 36

Insurance; financial affairs; monetary affairs; real estate affairs.

Class 37

Building construction; repair; installation services.

Class 38

Telecommunications.

Class 39

Transport; packaging and storage of goods; travel arrangement.

Class 40

Treatment of materials.

Class 41

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Education; providing of training; entertainment; sporting and cultural activities.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

Class 43

Services for providing food and drink; temporary accommodation.

Class 44

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45

Legal services; security services for the physical protection of tangible property and individuals; personal and social services rendered by others to meet the needs of individuals.

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SCHEDULE 2

(section 11)

EIGHTH SCHEDULE

(regulation 4(2), 4(3) and 20(3))

CLASSIFICATION OF GOODS AND SERVICES

PART I - GOODS

Class 1

Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; putties and other paste fillers; compost, manures, fertilizers; biological preparations for use in industry and science.

Class 2

Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

Class 3

Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery, essential oils; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations.

Class 4

Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

Class 5

Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for human beings and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

Class 6

TRADE MARKS AND SERVICE MARKS REGULATIONS AMENDMENT AND VALIDATION ACT 2023

Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

Class 7

Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated hand tools; incubators for eggs; automatic vending machines.

Class 8

Hand tools and implements, hand-operated; cutlery; side arms, except firearms; razors.

Class 9

Scientific, research, navigation, surveying, photographic, cinematographic, audiovisual, optical, weighing, measuring, signalling, detecting, testing, inspecting, life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling the distribution or use of electricity; apparatus and instruments for recording, transmitting, reproducing or processing sound, images or data; recorded and downloadable media, computer software, blank digital or analogue recording and storage media; mechanisms for coin-operated apparatus; cash registers, calculating devices; computers and computer peripheral devices; diving suits, divers' masks, ear plugs for divers, nose clips for divers and swimmers, gloves for divers, breathing apparatus for underwater swimming; fire-extinguishing apparatus.

Class 10

Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for persons with disabilities; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

Class 11

Apparatus and installations for lighting, heating, cooling, steam generating, cooking, drying, ventilating, water supply and sanitary purposes.

Class 12

Vehicles; apparatus for locomotion by land, air or water.

Class 13

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Firearms; ammunition and projectiles; explosives; fireworks.

Class 14

Precious metals and their alloys; jewellery, precious and semi-precious stones; horological and chronometric instruments.

Class 15

Musical instruments; music stands and stands for musical instruments; conductors' batons.

Class 16

Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

Class 17

Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

Class 18

Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

Class 19

Materials, not of metal, for building and construction; rigid pipes, not of metal, for building; asphalt, pitch, tar and bitumen; transportable buildings, not of metal; monuments, not of metal.

Class 20

Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

Class 21

TRADE MARKS AND SERVICE MARKS REGULATIONS AMENDMENT AND VALIDATION ACT 2023

Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

Class 22

Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

Class 23

Yarns and threads, for textile use.

Class 24

Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

Class 25

Clothing, footwear, headgear.

Class 26

Lace, braid and embroidery, and haberdashery ribbons and bows; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

Class 27

Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings, not of textile.

Class 28

Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

Class 29

Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food.

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Class 30

Coffee, tea, cocoa and substitutes therefor; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar, honey, treacle; yeast, baking powder; salt, seasonings, spices, preserved herbs; vinegar, sauces and other condiments; ice (frozen water).

Class 31

Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

Class 32

Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other preparations for making non-alcoholic beverages.

Class 33

Alcoholic beverages, except beers; alcoholic preparations for making beverages.

Class 34

Tobacco and tobacco substitutes; cigarettes and cigars; electronic cigarettes and oral vaporizers for smokers; smokers' articles; matches.

PART II - SERVICES

Class 35

Advertising; business management, organization and administration; office functions.

Class 36

Financial, monetary and banking services; insurance services; real estate services.

Class 37

Construction services; installation and repair services; mining extraction, oil and gas drilling.

Class 38

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Telecommunications services.

Class 39

Transport; packaging and storage of goods; travel arrangement.

Class 40

Treatment of materials; recycling of waste and trash; air purification and treatment of water; printing services; food and drink preservation.

Class 41

Education; providing of training; entertainment; sporting and cultural activities.

Class 42

Scientific and technological services and research and design relating thereto; industrial analysis, industrial research and industrial design services; quality control and authentication services; design and development of computer hardware and software.

Class 43

Services for providing food and drink; temporary accommodation.

Class 44

Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45

Legal services; security services for the physical protection of tangible property and individuals; dating services, online social networking services; funerary services; babysitting.

[Assent Date: 17 October 2023]

[Operative Date: 17 October 2023]