

Legislation

Trade Marks (Amendment) Bill 2004 (B18/2004)

The Trade Marks Act will be amended to provide greater protection for businesses. The amendments will open up more avenues to protect businesses' investment in branding, licensing and product development.

Areas addressed by the Trade Marks (Amendment) Bill 2004 include:

- * removal of the requirement for trade marks to be 'visually perceptible';
- * giving effect to WIPO's Joint Recommendations Concerning the Protection of Well-Known Marks;
- * facilitation of trade mark licensing activities with the removal of certain administrative requirements on licensees;
- * introducing the remedy of statutory damages in certain cases of trade mark infringement; and
- * strengthening the enforcement regime with less stringent notification requirements for Customs enforcement action and provisions to allow for ex officio border measures.

Patents (Amendment) Bill 2004 (B19/2004)

This Bill seeks to amend the Patents Act to implement certain obligations undertaken by Singapore under the United States-Singapore Free Trade Agreement (USSFTA) concluded in 2003, and to modify certain administrative procedures.

Some of the changes are as follows:

- * patent term extension for drug marketing approval delays;

- * provide five-year data protected period from the date of marketing approval;
- * use of patented products in experimentation to obtain marketing approval will be allowed.

Plant Varieties Protection Bill 2004 (B21/2004)

A new Plant Varieties Protection Act will be introduced that conforms to the 1991 revision of the UPOV (The International Union for the Protection of New Varieties of Plants) Convention. Under the proposed Act, new varieties of 15 plant genera and species which are of relevance and importance to local plant breeders and biotech industry are eligible for protection.

Intellectual Property (Miscellaneous Amendments) Bill 2004 (B20/2004)

The Intellectual Property (Miscellaneous Amendments) Bill 2004 seeks to address the following three amendments:

- * amendment of the Copyright Act to extend the term of protection by another 20 years;
- * amend the Registered Designs Act to allow exclusive licensees the right to proceed with an action for infringement without enjoining the owner of the registered design
- * amend the Layout-Designs of Integrated Circuits Act to allow exclusive licensees the right to proceed with an action for infringement without enjoining the owner of the registered design

Legal Profession (Amendment) Bill 2004 (B17/2004)

The Legal Profession (Amendment) Bill 2004 seeks to amend the Legal Profession Act primarily to make provisions for the new position of a 'locum solicitor' which the Bill defines to mean an advocate and solicitor engaged (whether concurrently or otherwise) on a temporary or freelance

basis by one or more law firms, law corporations or solicitors practising on their own account. Among other changes, the Bill introduces a new s 25(2A) to require solicitors intending to practise as locum solicitors to apply for a practising certificate to practise as a locum solicitor in accordance with rules relating to such practising certificates. The Bill also prescribes the requirements, which have to be satisfied before a person can apply to practise as a locum solicitor.

Another key change is the removal of the current restriction that foreign lawyers representing a party in any arbitration proceedings, involving Singapore law, must appear jointly with a Singapore advocate and solicitor. This amendment also clarifies that foreign lawyers may give advice, prepare documents and render assistance in relation to or arising out of arbitration proceedings. The foreign lawyers will not, however, have any right of audience in any Singapore court.

Medicines (Amendment) Bill (B 25/2004)

The Medicines (Amendment) Bill 2004 (the 'Bill') seeks to amend the Medicines Act (Cap 176) (the 'Act') to implement certain obligations undertaken by Singapore under the United States-Singapore Free Trade Agreement, which was concluded in 2003. Amongst other changes, cl 2 of the Bill inserts a new s 12A to the Act, which essentially prescribes various factors that have to be taken into account by the licensing authority, when dealing with an application for a product licence. The new section also requires an applicant for such licence to make one or more declarations stating whether the medicinal product is subject to a patent and other particulars relating to that patent.

Companies (Amendment No 3) Regulations 2004 (S293/2004)

Section 205C of the Companies Act exempts an exempt private company from audit requirements if its revenue in that year does not exceed the

prescribed amount. Regulation 89A of the Companies Regulations currently provides that the prescribed amount is S\$2.5 million.

With effect from 1 June 2004, reg 89A(1) will be amended to reflect a rise in the prescribed amount from S\$2.5 million to S\$5 million.

Notwithstanding the change, new sub-para (2) of reg 89A provides that the prescribed amount for an exempt private company in respect of a financial year starting on or after 15 May 2003 but before 1 June 2004 shall be S\$2.5 million. The date 15 May 2003 is that on which s 205C came into force.

Companies (Filing of Accounts) (Amendment) Regulations 2004 (S292/2004)

Following the change in the threshold amount for the audit exemption, consequential changes have been made to the Companies (Filing of Accounts) Regulations 2003 (S17/2003).

Among other changes, there are now two forms of the Certificate by an Exempt Private Company under s 197(1) depending on whether the financial year of the company starts on or after 15 May 2003 (see prescribed form in Part V) or before 15 May 2003 (see prescribed form in Part VI).

Skills Development Levy (Variation of Remuneration of Employees) Order 2004 (S271/2004)

The Skills Development Levy Act imposes on every employer a skills development levy in respect of each of his employees at the rate of 1% of the remuneration in any month of that employee or \$2, whichever is the greater. The levy is payable in respect of employees drawing a monthly salary which does not exceed S\$1,500.

Pursuant to the Skills Development Levy (Variation of Remuneration of Employees)

Order 2004, the salary threshold will be raised from S\$1,500 to S\$1,800 with effect from 1 July 2004.

Private Hospitals and Medical Clinics (Publicity) Regulations 2004 (S281/2004)

The Private Hospitals and Medical Clinics (Publicity) Regulations 2004 (the 'Regulations') are effective from 17 May 2004.

Subject to these Regulations and to any other written law, the licensee of a healthcare institution may publicise or cause to be publicised the services of the healthcare institution.

The licensee of a healthcare institution shall ensure that any publicity of the services of the healthcare institution conducted by him or any other person on his behalf complies with the following requirements:

- (a) the information contained in the publicity must be factually accurate and capable of being substantiated, and must not be exaggerated, false, misleading or deceptive;
- (b) the publicity must not be offensive, ostentatious or in bad taste such as to undermine the honour and dignity of the medical, dental or nursing profession;
- (c) the publicity must not contain any information that:
 - (i) implies that the healthcare institution can obtain results from treatment not achievable by other healthcare institutions or create an unjustified expectation from the treatment provided; or
 - (ii) compares and contrasts the quality of the services of the healthcare institution with those provided by other healthcare institutions or deprecate the services of other healthcare institutions;

- (d) the publicity must not contain any laudatory statements (including statements of prominence or uniqueness) or superlatives to describe the services of the healthcare institution;
- (e) the information contained in the publicity must not contain any testimonial or endorsement of the services, including the services of any employee of the healthcare institution; and
- (f) the publicity must not provide information to the public in such a manner as to amount to soliciting or encouraging the use of the services provided by or at any healthcare institution.

Where the licensee of a healthcare institution becomes aware of any publicity relating to the services of the healthcare institution which contravenes any provision of these Regulations, he shall take all reasonable steps to procure the rectification or withdrawal of the publicity, and to prevent its recurrence.

Where it appears to the Director of Medical Services that any publicity relating to the services of a healthcare institution contravenes any provision of these Regulations, the Director may, after making due inquiry into the matter, order the licensee of the healthcare institution to alter, withdraw, remove or discontinue the publicity or cause the same to be altered, withdrawn, removed or discontinued.

The licensee of a healthcare institution shall ensure that any publicity of the services of the healthcare institution appears only in newspapers, directories, medical journals, magazines, brochures, leaflets, pamphlets and the Internet.

Elizabeth Wong
Allen & Gledhill