



SUPPLEMENT No. 3

TO

THE CYPRUS GAZETTE No. 2987 OF 16TH APRIL, 1942.

SUBSIDIARY LEGISLATION.

No. 111.

THE EMERGENCY POWERS (DEFENCE) ACTS, 1939 AND 1940.

REGULATIONS MADE BY THE GOVERNOR.

C. C. WOOLLEY,

Governor.

I, the Governor, in exercise of the powers conferred by the Emergency Powers (Defence) Acts, 1939 and 1940, as extended to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940, do hereby make the following regulations:—

1. These regulations may be cited as the Defence (Trade Marks and Merchandise Marks) Regulations, 1942.

2. In these regulations—

- (a) the expression "goods imported on government account" means goods the property in which was, at the time of their importation, vested in, or which were at that time consigned directly to, His Majesty or a government department or a person acting as agent for His Majesty or a government department;
- (b) the expression "mark" includes a name and all other things mentioned in the definition of that expression in the Trade Marks Registration Law, 1910;
- (c) the expression "overseas supplier" means, in relation to any goods, a person carrying on outside the Colony a business in the course of which a connection in the course of trade between him and the goods subsisted;
- (d) any reference to a mark or name being borne by goods includes a reference to its being upon a package in which the goods are enclosed, or on a label affixed to the goods or to such a package, and a reference to its being used in any other manner in physical relation to the goods; and
- (e) references to a mark or get-up nearly identical with another shall be construed as references to one which differs from that other in respect only of variations, additions or omissions which do not substantially affect its identity with that other.

3. The provisions of these regulations shall have effect as respects goods imported into the Colony on government account in connection with any of the purposes specified in subsection (1) of section one of the Emergency Powers (Defence) Act, 1939, (in these regulations referred to as "essential imports"), and as respects a mark which any essential imports bear at the time of their importation, or which was used in relation to any essential imports before their importation by an overseas supplier thereof, and a form of get-up in which any essential imports are at the time of their importation (in these regulations referred to as a mark or get-up "applied overseas").

4. For the purposes of proceedings for infringement of a registered trade mark, or for passing off, brought against any person in respect of the use in relation to any goods of a mark or in respect of the getting up of any goods in a particular way, it shall be a defence for that person to prove that the goods were essential imports and that that mark or get-up was, or was identical or nearly identical with, a mark or get-up applied overseas to the goods:

Provided that any use of a mark or get-up in respect of which apart from this paragraph a person could have obtained relief in proceedings to which this paragraph affords a defence shall be disregarded for all purposes for which it might apart from

- 8 of 1910 this provision have been material under the Trade Marks Registration Law, 1910, or at common law, in ascertaining the rights of that person or any successor in title of his, or any rights claimed adversely to that person or any successor in title of his by any other person, in relation to any trade mark registered in that person's name, or any mark or get-up which he had used, before the time of the importation of the goods.
- 12 of 1892 5. For the purposes of any prosecution for an offence against the Merchandise Marks Law, 1892, in relation to any goods, neither the application to the goods of any mark nor the getting up of the goods in any way shall be treated as a false application thereto of a mark, or as an application thereto of a false trade description, if the person charged proves that the goods were essential imports and that that mark or get-up was, or was identical or nearly identical with, a mark or get-up applied overseas to the goods.
- 12 of 1892 6. For the purposes of any prosecution for an offence under the Merchandise Marks Law, 1892, in relation to the forging of a trade mark or to a forged trade mark, the making of a mark shall not be treated as a forging of that trade mark if the person charged proves either that it was a mark applied overseas to essential imports or that it was identical or nearly identical with a mark applied overseas to essential imports and that the purpose of making it was for application to those imports.
- 12 of 1892 7. Section thirteen of the Merchandise Marks Law, 1892, shall not have effect in relation to essential imports.
- 12 of 1892 8. For the purposes of proceedings for breach of a warranty deemed by virtue of section fourteen of the Merchandise Marks Law, 1892, to have been given in relation to any goods to which a trade mark or mark or trade description had been applied, it shall be a defence for the person sued to prove that the goods were essential imports and that that mark or description was, or was identical or nearly identical with, a mark or get-up applied overseas to the goods.
9. A certificate issued by a competent authority to the effect that any goods are or were essential imports, or that a mark or get-up was applied overseas to any goods, shall be conclusive for the purposes of these regulations.

Made at Nicosia, this 14th day of April, 1942.

(M.P. 1573/39.)

R. 42/167

No. 112. J

THE EMERGENCY POWERS (DEFENCE) ACTS, 1939 AND 1940.

REGULATIONS MADE BY THE GOVERNOR.

C. C. WOOLLEY,
Governor.

I, the Governor, in exercise of the powers conferred by the Emergency Powers (Defence) Acts, 1939 and 1940, as extended to the Colony by the Emergency Powers (Colonial Defence) Order in Council, 1939, and the Emergency Powers (Colonial Defence) (Amendment) Order in Council, 1940, do hereby make the following regulations:—

Gazettes :
Supplement
No. 3 :

3. 6.1940
7. 8.1940
23. 8.1940
9.10.1940
11.12.1940
29. 1.1941
30. 5.1941
18. 6.1941
23.10.1941
6.11.1941
15.12.1941
5. 2.1942
26. 2.1942
2. 4.1942

Insertion of
new regula-
tion 95A.

1. These regulations may be cited as the Defence (Amendment No. 4) Regulations, 1942, and shall be read as one with the Defence Regulations, 1940 to (No. 3) 1942 (hereinafter referred to as "the principal Regulations"), and the principal Regulations and these regulations may together be cited as the Defence Regulations, 1940 to (No. 4) 1942.

2. The following regulation shall be inserted in the principal Regulations immediately after regulation 95:—

"Special
tribunals.

95A.—(1) Notwithstanding anything in these regulations contained but without prejudice to the operation thereof the Governor may, if he sees fit, by order, establish in the Colony or in such part or area thereof as may be specified in the order, special tribunals which shall be composed and have jurisdiction as hereinafter provided.