



**INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA (MyIPO)**  
**TRADEMARKS ACT 2019**  
**PRACTICE DIRECTION NO. 3/2020**

THIS PRACTICE DIRECTION is issued in the exercise of the power conferred upon the Registrar of Trademarks by sections 160 and 183 of the Trademarks Act 2019 [Act 815] and in view of the issuance of the Trademarks (Waiver and Modification of Fee) Regulations 2020 which comes into force on 1 January 2021.

**PART I**

Preliminary

**Citation, effective date and scope**

1. (1) This practice direction may be cited as the Practice Direction No. 3/2020.
- (2) This Practice Direction No. 3/2020 shall be effective on 1 January 2021.
- (3) This Practice Direction No. 3/2020 sets out the requirements to be complied with by any individual, partnership, association, body corporate or institution who is interested to file an application for waiver or modification of fee with the Registrar according to the manner specified by the Registrar in this Practice Direction for any matters specified in the Trademarks (Waiver and Modification of Fee) Regulations 2020.
- (4) In order to assist with the interpretation of the requirements under this Practice Direction and its application, notes and illustrations have been inserted. The Registrar may take into account any action or conduct which departs from the notes or illustrations in determining the compliance with this Practice Direction as well as the Trademarks Act

2019, Trademarks Regulations 2019, Guidelines of Trademarks 2019 and Trademarks (Waiver and Modification of Fee) Regulations 2020.

- (5) By complying to this Practice Direction No. 3/2020, the applicant or registered proprietor of trademark shall be deemed to have fulfilled the requirements of filing the documents with the Registrar in other manner as directed by the Registrar according to paragraphs 30 and 31 of the Guidelines of Trademarks 2019.
- (6) This Practice Direction No. 3/2020 does not replace the availability of filing relevant application through electronic filing system which is made available by the Registrar of Trademarks.

### **Interpretation**

2. (1) Unless otherwise defined, all words or terms used in this Practice Direction shall have the meaning as defined in the Trademarks Act 2019, Trademarks Regulations 2019 and Guidelines of Trademarks 2019.
- (2) In this Practice Direction, unless the context otherwise requires—  
“Practice Direction” means the Practice Direction No. 3/2020;  
“TMRWMF 2020” means the Trademarks (Waiver and Modification of Fee) Regulations 2020;  
“the Counter” means the counter of the Trademarks Office or other branch offices.

## **PART II**

### **Requirements to be complied**

#### **Requirements to be complied by individual, partnership, association, body corporate or institution**

3. (1) For the purpose of applying for waiver or modification of fee under regulation 4 or 6 of the TMRWMF 2020, any individual, partnership,

association, body corporate or institution stated in paragraphs 3(1)(a) or (b), or subregulation 5(1) of the TMRWMF 2020 shall—

- (a) file an application for waiver or modification of fee as specified in the First Schedule; and
- (b) comply with all the requirements stated in the TMRWMF 2020.

**Notes:**

In complying to the requirements under—

- (a) subsubparagraph 4(1)(c)(i)(A) or 6(1)(c)(i)(A) of TMRWMF 2020, the individual may give:
  - (i) a copy of a letter from Inland Revenue Board of Malaysia;
  - (ii) a copy of confirmation SMS from Inland Revenue Board of Malaysia; or
  - (iii) an extract from the bank account proving the receipt of the aid;
- (b) subsubparagraph 4(1)(c)(i)(B) or 6(1)(c)(i)(B) of TMRWMF 2020, the individual may give:
  - (i) a copy of a letter from employer stating that his employment has been terminated; or
  - (ii) a copy of a letter from employer stating that his emoluments or salary has been reduced;
- (c) subsubparagraph 4(1)(c)(ii)(A) or 6(1)(c)(ii)(A) of TMRWMF 2020, the partnership, association, body corporate or institution may give:
  - (i) a copy of a letter from any financial institution confirming an extension of moratorium or repayment flexibility; or

- (ii) a copy of confirmation SMS from any financial institution confirming an extension of moratorium or repayment flexibility;
- (d) subsubparagraph 4(1)(c)(ii)(B) or 6(1)(c)(ii)(B) of TMRWMF 2020, the partnership, association, body corporate or institution may give:
  - (i) a letter from the partnership, association, body corporate or institution declaring that the partnership, association, body corporate or institution is suffering from cash flow problem together with any supporting evidence such as extract of the statement of account;
- (e) subsubparagraph 4(1)(c)(ii)(C) or 6(1)(c)(ii)(C) of TMRWMF 2020, the partnership, association, body corporate or institution may give:
  - (i) a copy of a letter from any vendors or contractors requiring or claiming the partnership, association, body corporate or institution to make payment for any debts owed.

- (2) The forms and supporting document required under paragraphs 3(1)(a) and (b) shall be, either—
- (a) filed with the Registrar manually at the Counter; or
  - (b) submitted to the Registrar through email at the address of [tmwmf@myipo.gov.my](mailto:tmwmf@myipo.gov.my),
- for the Registrar to issue the decision on the application for waiver or modification of fee.

- (3) All the requirements under the Trademarks Act 2019 shall be applicable on the applicant for registration of trademark or registered proprietor in applying and filling in the model forms TMB4, TME2, TMK1 and TMK3.
- (4) No application for waiver or modification of fee which does not comply with the requirements under this Practice Direction and the TMRWMF 2020 shall be entertained by the Registrar.

**Illustrations:**

**Application for waiver of fee in respect of item 7 or 27 as specified in paragraph 3(1)(a) or (b) of the TMRWMF 2020**

ABC Sdn. Bhd., a body corporate, filed an application for amendment of name or address (Model Form TMB4) with the Registrar on 5 January 2021. A week after, the director of ABC Sdn. Bhd. realized that the company could obtain waiver of fee under the TMRWMF 2020. He wishes to get refund for the payment of Model Form TMB4 that he made on 5 January 2021.

In this situation, as the application for waiver of fee is not filed according to the manner required by the Registrar, his application for waiver of fee or refund cannot be entertained. In order to avoid this situation, the director of ABC Sdn. Bhd., on 5 January 2021 should file:

- (a) an application for waiver of fee together with the supporting documents; and
- (b) model form TMB4; and
- (c) file or submit both documents mentioned in (a) and (b) manually at the Counter or through email; and
- (d) fulfill all requirements stipulated under this Practice Direction and the TMRWMF 2020.

**Application for modification of fee in respect of item 31 as specified in regulation 5 of the TMRWMF 2020**

DEF Sdn. Bhd., a body corporate, has a registration of trademark which is expiring on 2 January 2021. He does not have sufficient fund to pay for the model form TME1 (renewal for registration) by 2 January 2021 as the company is suffering from cash flow problem. On 20 February 2021, the director of the company filed a request for late renewal (Model Form TME2) with the Registrar. A week after, the director of DEF Sdn. Bhd. realized that the company could pay a lesser amount of fee for Model Form TME2 (RM1000) as modified under the TMRWMF 2020. He wishes to get refund for extra payment made (RM200) for Model Form TME2 that he made on 20 February 2021.

In this situation, as the application for modification of fee is not filed according to the manner required by the Registrar, the application for modification of fee or refund cannot be entertained. In order to avoid this situation, the director of DEF Sdn. Bhd., on 20 February 2021 should file:

- (a) an application for waiver of fee together with the supporting documents; and
- (b) model form TME2; and
- (c) file or submit both documents mentioned in (a) and (b) manually at the Counter or through email; and
- (d) fulfill all requirements stipulated under this Practice Direction and the TMRWMF 2020.

**Registrar's approval**

4. (1) If the forms and supporting document required under paragraph 3(1)(a) and (b) is filed at the Counter according to paragraph 3(2)(a), the Registrar shall issue the decision on the application for waiver or modification of fee on the same day of filing at the Counter.

- (2) If the forms and supporting document required under paragraph 3(1)(a) and (b) is submitted through email according to paragraph 3(2)(b), the Registrar shall issue the decision on the application for waiver or modification of fee—
- (a) on the same day, if the Registrar received the email together with the completed forms and supporting document **from 12.00 am to 4.00 pm on any day from Monday to Friday**; or
  - (b) on the next working day, if the Registrar received the email together with the completed forms and supporting document **from 4.01 pm to 11.59pm on any day from Monday to Friday or on any excluded days**,
- by using the Registrar's official email.

#### **Making payment and issuance of receipt for the matter**

5. (1) If the decision of the Registrar in paragraph 4 is in affirmative, the individual, partnership, association, body corporate or institution shall make the payment required—
- (a) at the Counter; or
  - (b) through bank or interbank transfer according to the manner stipulated in paragraph 3(1)(d), (e) and (f) of the Practice Direction No.2/2020.
- (2) For the purpose of applying paragraph 3(1)(f)(i) of the Practice Direction No.2/2020, references to the forms under the repealed Act, or application or request under the Trademarks Act 2019 in relation to the action taken by the applicant or registered proprietor shall be construed as reference to the approval of the application for waiver or modification of fee under paragraph 4 together with its supporting document and the relevant model forms in relation to the matter to be filed by the applicant or registered proprietor.
- (3) If the payment is made—
- (a) according to paragraph 5(1)(a), the Registrar shall issue the receipt of payment at the Counter; and

(b) according to paragraph 5(1)(b), the Registrar shall issue the receipt of payment according to the manner stipulated in paragraph 4 of the Practice Direction No.2/2020.

(4) The Registrar shall issue a receipt of payment made under this paragraph even though the payment is waived.

### **Process Flow of Obtaining Waiver or Modification of Fee**

6. The process flow of obtaining the waiver or modification of fee is specified in the Second Schedule.

### **FIRST SCHEDULE**

### **SECOND SCHEDULE**



**FIRST SCHEDULE**

APPLICATION FORM FOR WAIVER OR MODIFICATION OF FEE

**INTELLECTUAL PROPERTY CORPORATION OF MALAYSIA  
TRADEMARKS ACT 2019  
TRADEMARKS (WAIVER OR MODIFICATION OF FEE) REGULATIONS 2020  
APPLICATION FOR WAIVER OR MODIFICATION OF FEE**

<b>1.</b>	<p><b>DETAILS OF APPLICANT / REGISTERED PROPRIETOR</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;">Application/Registration No.:</td> <td style="width: 60%;"></td> </tr> <tr> <td style="padding: 5px;">Full name:</td> <td></td> </tr> <tr> <td style="padding: 5px;">Agent code (if any):</td> <td></td> </tr> </table>	Application/Registration No.:		Full name:		Agent code (if any):	
Application/Registration No.:							
Full name:							
Agent code (if any):							
<b>2.</b>	<p><b>APPLICATION</b></p> <p><b>I intend to apply for waiver/modification of fee for— Please tick any of the boxes below</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 5%; text-align: center; vertical-align: middle;"><input type="checkbox"/></td> <td style="padding: 5px;">                 request for late renewal for registration of trademark which expired between 1 January 2021 until 30 June 2021                  (Model form with the fee code <b>TME2</b> shall be enclosed together with this form)             </td> </tr> <tr> <td style="text-align: center; vertical-align: middle;"><input type="checkbox"/></td> <td style="padding: 5px;">                 application for                  (a) amendment of name or address of applicant                  (b) correction of name or address of registered proprietor                  (Model form with the fee code <b>TMB4</b> shall be enclosed together with this form)             </td> </tr> <tr> <td style="text-align: center; vertical-align: middle;"><input type="checkbox"/></td> <td style="padding: 5px;">                 request for extension of time (for other than opposition proceedings) which response is due between 1 January 2021 until 30 June 2021                  No. of months: ..... (maximum is 6 months or as allowed by the provision under Trademarks Act 2019)                  (Model form with the fee code <b>TMK1 &amp; K3</b> shall be enclosed together with this form)             </td> </tr> </table>	<input type="checkbox"/>	request for late renewal for registration of trademark which expired between 1 January 2021 until 30 June 2021 (Model form with the fee code <b>TME2</b> shall be enclosed together with this form)	<input type="checkbox"/>	application for (a) amendment of name or address of applicant (b) correction of name or address of registered proprietor (Model form with the fee code <b>TMB4</b> shall be enclosed together with this form)	<input type="checkbox"/>	request for extension of time (for other than opposition proceedings) which response is due between 1 January 2021 until 30 June 2021 No. of months: ..... (maximum is 6 months or as allowed by the provision under Trademarks Act 2019) (Model form with the fee code <b>TMK1 &amp; K3</b> shall be enclosed together with this form)
<input type="checkbox"/>	request for late renewal for registration of trademark which expired between 1 January 2021 until 30 June 2021 (Model form with the fee code <b>TME2</b> shall be enclosed together with this form)						
<input type="checkbox"/>	application for (a) amendment of name or address of applicant (b) correction of name or address of registered proprietor (Model form with the fee code <b>TMB4</b> shall be enclosed together with this form)						
<input type="checkbox"/>	request for extension of time (for other than opposition proceedings) which response is due between 1 January 2021 until 30 June 2021 No. of months: ..... (maximum is 6 months or as allowed by the provision under Trademarks Act 2019) (Model form with the fee code <b>TMK1 &amp; K3</b> shall be enclosed together with this form)						
<b>3.</b>	<p><b>DECLARATION AND SIGNATURE - Please tick the relevant box</b></p> <p><input type="checkbox"/> <b>By person filling in the form</b></p> <p><b>By an individual:</b></p> <p><b>I declare that I am affected by measures prescribed, made, or taken under the Prevention and Control of Infectious Diseases Act 1988 [Act 342] to control or prevent the spread of COVID-19 and I fulfil all the conditions and qualify for the waiver/modification of fee because I am an individual—</b></p> <p style="margin-left: 20px;"> <input type="checkbox"/> who is from the B40 group who is entitled for the Household Living Aid or Prihatin National Aid; or  <input type="checkbox"/> whose income is affected,         </p> <p>Or</p> <p><b>By a partnership/association/body corporate/ institution:</b></p> <p><b>As a partner/director/person authorized by the partnership/association/ body corporate/ institution, I declare that the partnership/association/ body corporate/ institution is affected by measures prescribed, made, or taken under the Prevention and Control of Infectious Diseases Act 1988 [Act 342] to control or prevent the spread of COVID-19 and the partnership/association/ body corporate/ institution fulfils all the conditions and qualify for the waiver/modification of fee because the partnership/association/ body corporate/ institution has—</b></p>						

	<p> <input type="checkbox"/> obtained approval for the extension of moratorium or any repayment flexibility from any financial institution; or  <input type="checkbox"/> cash flow problem; or  <input type="checkbox"/> pecuniary indebtedness and problem on repayment of the debts, </p> <p>And I, the undersigned, do hereby declare that the information furnished above is true to the best of my knowledge.</p> <p><input type="checkbox"/> <b>By Agent</b></p> <p>I, the undersigned, do hereby declare that:</p> <p>(i) I have been duly appointed and authorized to act as an agent on behalf of the person(s) filing this form;  (ii) the information furnished above on behalf of the person(s) filing this form is true to the best of the applicant's knowledge; and  (iii) I have been informed and has been authorized to inform that the applicant is—</p> <p><b>an individual who is affected by measures prescribed, made, or taken under the Prevention and Control of Infectious Diseases Act 1988 [Act 342] to control or prevent the spread of COVID-19 and fulfils all the conditions and qualify for the waiver/modification of fee because he is an individual—Please tick the relevant box</b></p> <p> <input type="checkbox"/> who is from the B40 group who is entitled for the Household Living Aid or Prihatin National Aid; or  <input type="checkbox"/> whose income is affected. </p> <p>Or</p> <p><b>a partnership/association/body corporate/ institution which is affected by measures prescribed, made, or taken under the Prevention and Control of Infectious Diseases Act 1988 [Act 342] to control or prevent the spread of COVID-19 and the partnership/association/ body corporate/ institution fulfils all the conditions and qualify for the waiver/modification of fee because the partnership/association/ body corporate/ institution has—</b></p> <p> <input type="checkbox"/> obtained approval for the extension of moratorium or any repayment flexibility from any financial institution; or  <input type="checkbox"/> cash flow problem; or  <input type="checkbox"/> pecuniary indebtedness and problem on repayment of the debts. </p> <p>SIGNATURE:.....  NAME OF SIGNATORY:.....  OFFICIAL CAPACITY OF SIGNATORY:.....  (Examples: Authorized person, Director, Partner or Principal Officer of Applicant(s)/Agent)  DATE: .....  EMAIL/TELEPHONE NO. OF THE SIGNATORY:.....</p>
4.	<p><b>Supporting document</b> (mandatory - this application shall not be processed without the supporting document being enclosed):</p> <p><input type="checkbox"/> I enclose a copy of the supporting document which I declare to be true to support my declaration as stated in item 3.</p>
5.	<p><b>Attention:</b>  <b>It is an offence under section 103 of the Trademarks Act 2019 to make or cause to be made a false entry to the Trademarks Office and that person may be liable to a fine not exceeding RM50,000 or a term of imprisonment not exceeding 5 years or to both.</b></p>
6.	<p><b>FOR OFFICE USE</b></p> <p> <input type="checkbox"/> The application for waiver or modification of fee is approved.  <input type="checkbox"/> The application for waiver or modification of fee is not approved. </p> <p style="text-align: right;">DATE: .....</p>

## SECOND SCHEDULE

### PROCESS FLOW OF OBTAINING WAIVER OR MODIFICATION OF FEE

