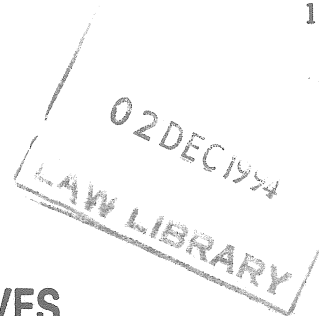


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## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Tuesday, 29 November 1994

## GATT (URUGUAY ROUND) BILL

*Proposed Amendments*

Hon. PHILIP BURDON, in Committee, to move the following amendments:

*Clause 18:* To omit from *subclause (1)* the expression "subsection (2)" (line 26 on page 12), and substitute the expression "subsections (2) and (3)".

To add (after line 34 on page 12) the following subclause:

(3) Nothing in subsection (1) of this section applies to a patent the term of which is extended by the Court or the Commissioner for a period exceeding 20 years from the date of the patent pursuant to an application for the extension of the term of the patent made before the commencement of this Part of this Act.

*Clause 22:* To omit *subclause (5)* (lines 1 and 2 on page 15), and substitute the following subclause:

(5) Subsections (2) and (3) of section 2 of the Trade Marks Amendment Act 1987 are hereby consequentially repealed.

*Clause 25:* To omit from *subsections (1) and (2)* of the proposed new *section 11* the word "continually" (lines 14 and 33 on page 17), and substitute the word "continuously".

*New clause 25A:* To insert (after line 6 on page 18) the following clause:

**25A. Saving for use of name, address, or description of goods or services**—Section 12 (b) of the principal Act (as substituted by section 8 of the Trade Marks Amendment Act 1987) is hereby amended by omitting the words "paragraph (b) or paragraph (c)" in both places where they occur, and substituting, in each case, the words "paragraph (e) or paragraph (f)".

*Clause 40:* To insert (after line 38 on page 34) the following section:

**"54GA. Forfeiture of goods by consent**—Where any goods have been detained in the custody of the Comptroller or any Collector or any officer of Customs, the importer or consignee

of the goods may, by notice in writing to the Comptroller or any Collector, consent to the goods being forfeited to the Crown and, on the giving of any such notice, the goods shall be forfeited to the Crown.

*New section 54i:* To omit from *subsection (1)* the words “during normal office hours” (line 41 on page 35).

To insert (after line 41 on page 35) the following subsection:

“(1A) A person referred to in *subsection (1)* of this section may—

“(a) Inspect the goods during normal office hours; or

“(b) With the approval of the Comptroller or Collector or officer of Customs, remove the goods or a sample thereof to such place, for such period, and on such conditions as the Comptroller or Collector or officer may specify, for the purpose of inspecting them.

*New section 54L:* To omit *paragraph (d)* (lines 20 to 29 on page 37), and substitute the following paragraph:

“(d) Requiring—

“(i) A person giving a notice under *section 54b* of this Act, either at the time of giving the notice or subsequently; or

“(ii) A person to whom goods are to be or have been released from detention under *section 54f (1)* of this Act—

to give security or an indemnity, or both, to such persons, of such amount, and on such terms and conditions as may be determined by the Comptroller:

To insert in *paragraph (e)*, after the word “security” (line 31 on page 37), the words “or an indemnity”.

To omit *paragraph (g)* (lines 36 and 37 on page 37).

To insert in *paragraph (h)*, after the word “under” (line 39 on page 37), the words “*section 54GA* or”.

#### EXPLANATORY NOTE

This Supplementary Order paper amends the GATT (Uruguay Round) Bill.

The amendment to *clause 18* makes it clear that the clause, which extends the term of existing patents to 20 years, does not prevent the extension of the term of a patent for a period exceeding 20 years where an application for an extension of the term of the patent has been made before the commencement of *Part I* of the Bill.

The amendment to *clause 22* provides for a consequential repeal.

The amendment to *clause 25* omits the word “continually” from the new *section 11* of the Trade Marks Act 1958 and substitutes the word “continuously”. The word “continuously” is used in the present *section 11*.

The new *clause 25A* makes a consequential amendment to *section 12* of the Trade Marks Act as a result of the new *sections 8 (1A)* and *47 (3A)*.

The proposed new *section 54GA* of the Trade Marks Act provides that where goods have been detained by Customs under the proposed new *section 54f*, the importer or consignee may, by notice in writing, consent to the forfeiture of the goods to the Crown. Under the proposed new *section 54H*, goods may be forfeited only where the Court makes an order for their forfeiture in proceedings to determine whether a registered trade mark has been infringed. The new *section* provides for goods to be forfeited by consent without having to obtain an order of the Court.

The amendment to the proposed new *section 54i* will enable goods or a sample of goods that are in the possession of the Comptroller or a Collector or officer of

Customs to be removed for the purposes of an inspection as well as being inspected at the premises of Customs.

There are a number of amendments to the proposed new *section 54L* of the Trade Marks Act. The first substitutes a new *paragraph (d)*. The existing paragraph provides for the making of regulations requiring the proprietor of a trade mark who gives a notice under the new *section 54B* and persons to whom goods are released from detention to give such security as may be prescribed in the regulations to such persons as may be prescribed. The new paragraph will enable the amount of the security, the persons to whom it is to be given, and the terms and conditions of such security to be determined by the Comptroller. The new paragraph will also enable regulations to be made requiring the giving of an indemnity.

The amendment to *paragraph (e)* results from the change to *paragraph (d)*.

*Paragraph (g)* has been omitted in view of the amendment to *section 54I*.

The amendment to *paragraph (h)* results from the new *section 54GA*.