

TRADE MARKS ACT 1994

**IN THE MATTER OF AN INTERLOCUTORY HEARING IN RELATION TO
OPPOSITION NO: 50104 BY EMAP CONSUMER MAGAZINES LIMITED TO
TRADE MARK APPLICATION NO: 2167183 IN THE NAME OF
MORTONS OF HORNCASTLE LIMITED**

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IN THE MATTER OF an interlocutory hearing
in relation to opposition no: 50104 by Emap Consumer Magazines Limited
to trade mark application no: 2167183 in the name of
Mortons of Horncastle Limited

BACKGROUND

1. The trade mark OLD BIKE MART was applied for on 20 May 1998 in the name of Mortons of Horncastle Limited. It was published for opposition purposes on 26 May 1999 and on 25 August 1999, Field Fisher Waterhouse on behalf of Emap Consumer Magazines Limited filed a notice of opposition. On 1 December 1999 Loven & Co on behalf of the applicants filed a counterstatement and the proceedings were joined. The early history of these proceedings were summarised by the Registrar's Hearing Officer in his decision dated 5 October 2000 a copy of which is attached as an Annex to this decision. In short, while in his decision the Hearing Officer refused the opponents' request for an extension of time in which to file their evidence-in-chief, he allowed these proceedings to continue under the provisions of Rule 13(8) of the Trade Marks Rules 2000, on the basis that the opponents had based their opposition in part on section 5 of the Act and that the opponents had given an undertaking to make submissions at the substantive hearing.

2. However prior to the issue of this decision, the opponents in a letter to the Trade Marks Registry from Field Fisher Waterhouse dated 8 September 2000 sought leave to file an amended statement of grounds. The opponents sought to introduce an additional ground which read as follows:

“4. The mark applied for is identical with the opponents' trade mark BIKE MART the subject of registration No: 1580745 and the goods for which the mark is applied for are identical with the goods for which the opponents' trade mark BIKE MART the subject of registration No: 1580745 is protected. Therefore the registration would offend the provisions of Section 5(1) of the Act”.

3. In the official letter of 21 September 2000 to the applicants' trade mark attorney's Loven & Co, the Trade Marks Registry commented on the opponents request to add the additional ground in the following terms:

“Please find enclosed a copy of an amended statement of case. It is my preliminary view that the amendment to add paragraph 4 of the opponents' amended statement of case is allowed. This is subject to comments or a request to be heard within 14 days from the date of this letter, If neither comments nor a request to be heard is made within the period the view is confirmed.

An amended counter-statement is invited from you within a period of 14 days from the date of this letter.

The period for filing the applicants' evidence shall, in accordance with rule 13(9) expire three months from the date of this letter".

4. In a letter dated 3 November 2000, Loven & Co objected to the opponents' request to add the additional ground. They commented as follows:

"Opponents' proposed amendment to their statement introduces a new ground of opposition, that is under S 5(1). It is not clear why they have done so as the two trade marks are manifestly not identical. If the opponents had wished to pursue this line of opposition, they could have done so in their original statement of case. At the hearing on 25 August 2000 I do not recall that Mr Engelman made any suggestion that any additional ground of opposition was contemplated, his submission being that the opposition should be continued under the provisions of the Practice Direction dated 17 February 2000. This direction addresses situations in which there is a risk of unnecessary expense and waste of time due to the opponent later changing his mind as to the subsequent conduct of proceedings. In the present case I submit that such a risk does exist and is wasting the time of both the Registry and the applicant who is incurring unnecessary expense. Furthermore I submit that the proposed amendment is a further device to delay proceedings".

5. In a letter dated 14 November 2000 the Trade Marks Registry responded to the comments of Loven & Co in the following terms:

"Whilst Mr Engelman did not address me on the question of the proposed additional section 5(1) ground at the hearing it does not thereby stop the opponents from seeking leave to amend their statement to add the ground. Similarly my letter of 29 August 2000 does not prevent an application for leave to amend the statement.

That said, amendment of a statement of case is always a matter of discretionary leave. Having carefully considered the applicants' arguments in paragraph 4 of their letter of 3 November, I have reversed my earlier preliminary view that amendment should be allowed. This is not because I feel the ground is plainly unarguable, or that it was simply not open to the opponents to amend their statement given what was said by Mr Engelman at the hearing.

The reason that I am now of the preliminary view that leave to amend should be refused is that the section 5(1) ground could have been raised at the commencement of proceedings and that the opponents have advanced no reason at all as to why the leave to amend should be granted.

A period of 14 days from the date of this letter is allowed in which to request to be heard on the matters in this letter".

6. In letters dated 22 and 28 November 2000 respectively, Field Fisher Waterhouse notified the Trade Marks Registry that; the opponents had appealed the Hearing Officer's decision of 5 October 2000 to the Court; and, that they requested a hearing on the Trade Marks Registry's decision mentioned in paragraph (5) above.

7. In a letter to the Trade Marks Registry dated 19 December 2000, Loven & Co requested that the period in which the applicants' evidence should be filed should be deferred until after the decision of the High Court had been made and it was clear that no further appeal was possible. In the alternative, they sought an extension of time of two months to file the applicants' evidence.

8. Responding to the above request in a letter dated 27 December 2000, the Trade Marks Registry commented as follows:

"It is my preliminary view that the term for filing the applicants' evidence should not be linked to the outcome of the opponents' appeal in the manner suggested by the applicant. Thus, it appears to me that the purpose of rule 13(9) is not to allow time to assess the opponents' evidence and submit evidence in reply, as has been suggested by the applicant. Such evidence in support of the application should be made available regardless of the outcome of the opponents' appeal.

In the circumstances, it is however my preliminary view that an extension of two months (up to 21 February 2001) as requested as an alternative, is allowed for the applicants to file their evidence. The extension is not granted to assess the opponents' evidence (should they be allowed to file any); it is granted in the exercise of discretion having particular regard to the uncertain position that the applicants have found themselves in relation to the appeal. This is subject to the filing of a TM9 Form and fee. It is also subject to comments from the opponents who have 14 days from the date of this letter in which to comment on the extension. In the event that the opponents object to the extension it is proposed that the matter be dealt with at the hearing appointed for 6 February 2001".

9. In a letter to the Trade Marks Registry dated 15 January 2001 Loven & Co filed Form TM9 and fee. They added:

"Our client has to-day instructed us to apply for a hearing in respect of your preliminary view that the term for filing their evidence should not be linked to the outcome of the opponents' appeal. We ask that we be heard on this matter at the hearing already appointed for 6 February 2001".

10. In a letter to the Trade Marks Registry dated 29 January 2001, Field Fisher Waterhouse indicated that they wished to contest the preliminary view contained in the official letter dated 27 December 2000.

11. An interlocutory hearing to determine two points, namely: (1) the opponents' request for leave to amend their statement of case to include a reference to section 5(1) of the Act and (2) the applicants' request for a stay in proceedings to await the outcome of the decision of the High Court took place before me on 6 February 2001. At the hearing Mr Michael Edenborough of Counsel instructed by Loven & Co represented the applicants; Mr Mark Engelman of Counsel instructed by Field Fisher Waterhouse represented the opponents.

12. Having considered both parties submissions, I reserved my decision on both points. I

subsequently wrote to both parties on 20 February 2001. The substance of my letter is reproduced below:

“Having considered both parties skeleton arguments together with the oral submissions at the hearing and having now had an opportunity to review the hearing transcript, my decisions are as follows:

Firstly in respect of the request by the opponents to amend their grounds of opposition by adding Section 5(1) of the Act, I am of course mindful of the delay that occurred between the filing of the initial grounds of opposition (25 August 1999) and the request for amendment (8 September 2000). I also note that initially no reasons were provided by the opponents to support the request. However, having considered the explanation provided by Mr Engelman and having also considered Mr Edenborough’s comment at the hearing, namely: “first, there is no doubt than an amendment will nearly always be allowed, the applicant is perfectly happy to accept that point”, combined with the early stage of the proceedings in this case, **the request to amend the grounds of opposition is allowed.** In reaching this decision, I have of course borne in mind Mr Edenborough’s comments in so far as the “merits” of the amendment are concerned but in my view the merits of the amendment are not so unarguable that they should be dismissed at this stage in the proceedings.

In view of my decision in this regard, the applicants are allowed a period of 14 days from the date of this letter to file an amended counter-statement.

Secondly, I have the applicants’ request to suspend proceedings to await the outcome of the appeal currently before the High Court to consider. At the hearing I was advised that the High Court will hear the appeal against Mr Smith’s decision on 4 April 2001. I then heard extensive submissions from both Counsel on the approach I should adopt. In all the circumstances of this particular case, I agree with Mr Edenborough that the period for the applicants to file their evidence should be stayed to await the decision of the High Court (the request for suspension being contained in paragraph 2 of your letter to the Registrar of 19 December 2000). Once this decision is issued (and depending on the outcome) the “normal” evidence timetable can be resumed”.

13. In the interim, on 13 and 20 February 2001, Loven & Co wrote to the Trade Marks Registry and filed evidence. In their letter of 13 February they say:

“We now file the following evidence as a surfeit of caution without prejudice to our contention that it does not need to be filed now. We still believe it would be appropriate to file our evidence in answer when we know what evidence the other side will file:-

Affidavit of Malcolm Wheeler
Affidavit of Brian Victor Hill”.

14. In their letter of 20 February 2001, Loven & Co also filed an affidavit of Kenneth Hallworth. In response to the filing of this evidence, in letters dated 19 and 28 February 2001, the Trade Marks advised the parties that the documents would remain on the official file until

such time as the decision of the High Court was known. Following the issue of my decision, in a letter dated 6 March 2001, Loven & Co filed an amended counterstatement together with Form TM5 requesting a statement of the grounds of my decision.

15. The statement of grounds of my decision were held in abeyance in the Trade Marks Registry to await the decision of the High Court. By August 2001 no progress appeared to have been made in this regard. Consequently, in a letter dated 2 August 2001, I wrote to the opponents in the following terms:

“My previous letter of 20 February 2001 which reported the outcome of the Interlocutory Hearing held on 6 February 2001 refers. As you are aware, on 6 March 2001 Loven & Co filed Form TM5 requesting a Statement of Grounds. To date this request for written grounds has been held in abeyance in the Trade Marks Registry to await the outcome of your appeal to the High Court (in respect of Mr Smith’s decision of 5 October 2000).

At the Interlocutory Hearing I was informed that the High Court would hear the appeal on 4 April 2001 but to date I have no further information in this regard. As I do not wish to delay the issuing of my written decision any longer, I would be grateful if you could let me know the current status of your appeal to the High Court and, if a decision has been issued, provide me with a copy. **I would appreciate a response to this letter by 16 August 2001**”.

16. Field Fisher Waterhouse responded in a letter dated 25 October 2001. They did so in the following terms:

I refer to several telephone conversations with your offices regarding your letter of 2 August 2001.

The Interlocutory Hearing held on 6 February 2001 concerns issues which are not the subject of the appeal which was due to be heard on 4 April 2001. That appeal has been suspended pending negotiations between the parties.

In the circumstances, and as the other side has requested reasons for your decision on 6 February 2001, we agree with you that the written decision should not be delayed any further”.

17. From the above chronology, it is I think clear that there is no immediate prospect of the opponents’ appeal to the High Court being reinstated to the list. That being the case I do not feel it appropriate to delay my decision in these proceedings any longer and now go on to give the grounds of my decision.

18. Although I dealt with the two issues mentioned above at the interlocutory hearing held on 6 February 2001, only the applicants for registration have sought written grounds. That being the case, it is only necessary for me in this decision to explain why I allowed the opponents’ request to amend their statement of grounds to include an objection under section 5(1) of the Trade Marks Act 1994. My decision to stay these proceedings to await the decision of the

High Court has not been challenged by either party and as such need not be dealt with any further. I have only included it in the details of the background to this decision in order to place the actions of the respective parties and the Trade Marks Registry into context.

THE SKELETON ARGUMENTS

19. Having provided some background to the request, in his skeleton argument Mr Engelman commented as follows:

“The rules governing the amendment of Statements of Case are to be found in Part 17 of the CPR. CPR 17.3 provides:

“Where the court gives permission for a party to amend his statement of case, it may give directions as to:

- (a) amendments to be made to any other statement of case; and
- (b) service of any amended statement of case”.

CPR 17.3.5 goes on to state:

“Under the previous rules the Court would refuse permission to amend only in exceptional cases where an amendment could not be made without doing injustice to the other party: it is a well established principle that the object of the Court is to decide the rights of the parties and not to punish them for mistakes they make in the conduct of their cases by deciding otherwise than in accordance with their rights.

I know of no kind of error or mistake which, if not fraudulent or intended to overreach, the court ought not to correct if it can be done without injustice to the other party. Courts do not exist for the sake of discipline but for the sake of deciding matters in controversy, and I do not regard such amendment as a matter of favour or grace.....it seems to me that as soon as it appears that the way in which a party has framed his case will not lead to a decision of the real matter in controversy, it is as much a matter of right on his part to have it corrected if it can be done without injustice, as anything else in the case is a matter of right (per Bowen L J in *Cropper V Smith* (1884 26 Ch.D 706 at 710-71) however negligent or careless may have been the first omission and however late the proposed amendment, the amendment should be allowed if it can be made without injustice to the other side. There is no injustice if the other side can be compensated by costs” (Per Brett M.R. in *Clarapede v Commercial Union Association* (1883) 32 W.R. - 262 at 263).

However, other pre-CPR cases emphasis that, where permission to amend was sought at trial, justice cannot always be measured in terms of money and a judge is entitled to weigh in the balance additional issues.

In the present application, the opponents’ regretfully decided to amend the grounds of opposition late and after the pleadings were originally settled but such an error can be accommodated for in costs and without any amendment to the evidence timetable.

The detriment to the applicant is minimal insofar as it has failed to file its evidence in support of the application in any event.

The CPR and supporting case law envisage such an amendment as a matter of right and that delay (save for one resulting in an amendment to the pleadings at the date of trial, where the application will only be granted subject to additional matters being weighed in the exercise of the discretion) will be condoned”.

20. In his skeleton argument Mr Edenborough said:

“The proposed amendment to rely upon section 5(1) of the Trade Marks Act 1994 ought to be refused, because it cannot succeed, because the marks relied upon by the opponents are clearly not identical to the mark sought to be registered, and so section 5(1) cannot apply.

It is submitted that it is wrong in principle to allow an amendment to raise a ground of opposition that is unarguable because this would be to condone the wasting of the Registry’s time at the main hearing.

The Registry ought to determine this issue summarily now and so refuse the amendment.”

COUNSELS’ SUBMISSIONS AT THE HEARING

21. Having taken me to the comments in his skeleton argument reproduced above, Mr Engelman explained that the person dealing with the opposition at Field Fisher Waterhouse had changed to Mr Olivier and it was he who had concluded that section 5(1) was an important section. This conclusion was, he says, reached some time after 25 August 2000 and the request to amend was filed at the Trade Marks Registry on 8 September 2000. Given the early stage of the proceedings and bearing in mind that the applicants had not yet filed their evidence, Mr Engelman concluded that any disadvantage they would suffer would be at worst minimal and could be dealt with by an award of costs. In so far as Mr Edenborough’s skeleton argument referred to the merits of the argument, Mr Engelman said:

“We say that the issues regarding the merit of the argument, although we do not step away from them because we see them as highly relevant, are not matters which the Court of Appeal took into account when making a decision as to whether such an amendment should be allowed. The courts do not seek to make interim determinations on matters of substance at an interim stage in a hearing, sir; that being a very important point. Were you to do that you would be determining the point today”.

22. For his part Mr Edenborough took me to the Civil Procedure Rules commenting as follows:

“First there is no doubt that an amendment will nearly always be allowed. The applicant is perfectly happy to accept that point. However there are

limitations.....we say that one of the factors you must look at is the merits of the amendment. In that sense sir, I am in flat contradiction to the submissions of my learned friend that you should, in appropriate circumstances, make an interim determination of the substance of the matter”.

23. In support of this approach, Mr Edenborough drew my attention to the Overriding Objectives contained in the Civil Procedure Rules and to the comments in *Charlesworth v Relay Roads Ltd* [1999] 4 All ER 397. On the basis of these texts Mr Edenborough said:

“Sir, those are two completely general points raised that apply to all potential amendments. First, you must draw from that any reasonable arguable point. That clearly requires an assessment of the merits of the proposed amendment. Secondly “consideration must be given to anxieties and legitimate expectations of the other party”. In this case a legitimate expectation of the opponent is that a ground such as 5(1) which could readily have been pleaded at the outset was not pleaded at the outset”.

24. He also drew my attention to the Registrar’s own Tribunal Practice Notice of 4/2000 (dated 4 October 2000) at paragraph 22 and to a Court of Appeal case - *Jones v Hughes* which is to be found in the 1905 edition, first volume of the Chancery Reports page 180. The former reads:

“22. As parties will be expected to file focussed statements of case and counter-statements, the Trade Marks Registry will consider requests to amend these documents later in the proceedings. Amendments may include adding or removing a ground of opposition/revocation or invalidity or correcting information contained therein. If an amendment becomes necessary parties should seek leave to make the amendment at the earliest opportunity. When seeking leave to amend full details of the amendment together with the reasons for the amendment should be submitted. Whilst each request to amend will be considered on its merits the Registry will aim to give favourable consideration to such requests on the basis that it is likely to avoid a multiplicity of proceedings and thus help resolve the dispute between the parties quickly and at less cost. If the amendment requires the other party to file an amended counter-statement or additional evidence, an award of costs to cover this may be made”.

25. From the above Mr Edenborough concluded (correctly in my view) that a request to amend a statement of case or counter-statement is a matter of discretion, not of right. In so far as the case of *Jones v Hughes* was concerned, Mr Edenborough took me to page 187 where Vaughan Williams L.J said:

“Mr Low says that we ought to give leave to amend. One good reason for our not doing so is that, looking at the case that he tells us he would wish to present, that case, if presented by amendment, would, in my judgement also fail; so there is nothing to be gained by the amendment”.

Commenting on that case Mr Edenborough said:

“That is a clear statement by the Court of Appeal that you should look at the merits of the amendment. If it is clearly going to fail, on the face of it, then the amendment should not be allowed because nothing would be gained. What you would be doing sir is allowing the other side to make an amendment which would then waste the Registry’s time at the full hearing. That cannot be right when you refer to the and take into account the overriding principles that are incorporated within the procedure before the Registry”.

26. Mr Edenborough then went on to consider the merits of the amendment in the context of the marks at issue, concluding that the amendment to include section 5(1) of the Act can not apply to these proceedings. He also drew my attention to the comments in the Tribunal Practice Notice of 4/2000 at paragraph 22 where it says”

“If an amendment becomes necessary parties should seek leave to make the amendment at the earliest opportunity. When seeking leave to amend full details of the amendment together with the reasons for the amendment should be submitted”

pointing out that in his view no reasons had been given.

27. In reply, Mr Engelman pointed out that the case of Jones v Hughes was not cited in the Civil Procedure Rules which in Mr Engelman’s view suggested that the decision had not been followed. He added that Cropper v Smith and Clarapede v Commercial Union Associates are the cases currently relied upon as a matter of procedure by the High Court. In so far as Mr Edenborough relied upon paragraph 22 of the Tribunal Practice Notice in relation to reasons why the amendment was sought and in relation to the delay which had occurred in requesting the amendment, Mr Engelman commented:

“Sir, we say that we did that. As soon as we conceived the amendment applied in this case, we made it at the earliest opportunity, within a matter of days”.

He also said:

“The practice direction of the Trade Marks Registry, sir is very much in conformity with the Court of Appeal decisions in the CPR themselves and there is no difference between those propositions. It is important to note that the Registry will give favourable consideration to such requests. The underlying proposition, sir, is that it would be unfair to allow a party to go to a hearing if it has not set out its stall in full. We again say there is no prejudice to the other side in permitting this amendment now”.

GROUNDS OF DECISION

28. It is clear from the extract contained in Tribunal Practice Notice 4/2000 at paragraph 22 (reproduced above) that if a party seeks to amend their statement of case or counterstatement they should do so at the earliest opportunity, and when doing so should provide reasons why the amendment is required. In these proceedings, the original notice of opposition was filed on 25 August 1999. It was not until some time after 25 August 2000 (one year later) that the

amendment to include the additional ground under section 5(1) of the Act was conceived. I note that while the formal request to amend the opponents' statement of case was contained in their letter to the Trade Marks Registry of 8 September 2000, this letter contained no reasons for the request.

29. The Trade Marks Registry's preliminary view contained in the official letter of 21 September 2000 was to allow the amendment and 14 days was allowed for the applicants to comment on the amendment or to request a hearing, this period would have expired on 5 October 2000. At the hearing there was some suggestion that as the applicants did not respond to this point until they wrote to the Trade Marks Registry on 3 November 2000, technically they were out of time to object and the preliminary view should have been confirmed. While there may be some force to this argument, in practical terms I note that when the Hearing Officer's decision (mentioned above) was issued, a number of pages were omitted by the Trade Marks Registry. The upshot of this error was that the Trade Marks Registry reissued the decision under cover of an official letter dated 20 October 2000 commenting that the preliminary view was that the period in which to appeal the decision was extended to 16 November 2000. I note that a period of 14 days ie. until 3 November 2000 was allowed for comments or a request to be heard. Clearly the existence of the two dates for response related to quite separate and distinct purposes. However, it is equally clear that it caused confusion within the applicants' agents Loven & Co. In the official letter of 14 November 2000, the Trade Marks Registry recognised this fact and allowed until 3 November 2000 (the date of Loven & Co's letter) for them to comment on the request to add the additional ground. Having taken account of these comments, the Trade Marks Registry then reversed their original preliminary view on the request to add the additional ground. The reasons for this change of preliminary view are reproduced above. In so far as the Trade Marks Registry took account of the confusion caused by the multiple response dates and in so doing took into account the comments of Loven & Co in their letter of 3 November 2000, in all the circumstances, I think that their approach was perfectly reasonable and sensible and I propose to say nothing further on the point.

30. In so far as the delay in requesting the amendment was concerned, clearly this was regrettable. Why a clear explanation was not included in the opponents' agents letter of 8 September 2000 as to the reasons why the amendment was required was equally regrettable. That said these two omissions in themselves are not sufficient, in my view, to deny the opponents the opportunity to pursue a ground of opposition which they think is clearly relevant. The Trade Marks Registry were initially of the same view. It was not until the official letter of 14 November 2000 that the Trade Marks Registry reversed their original preliminary view. They did so in the following terms (reproduced below for convenience):

“That said, amendment of a statement of case is always a matter of discretionary leave. Having carefully considered the applicants' arguments in paragraph 4 of their letter of 3 November, I have reversed my earlier preliminary view that amendment should be allowed. This is not because I feel the ground is plainly unarguable, or that it was simply not open to the opponents to amend their statement given what was said by Mr Engelman at the hearing.

The reason that I am now of the preliminary view that leave to amend should be

refused is that the section 5(1) ground could have been raised at the commencement of proceedings and that the opponents have advanced no reason at all as to why the leave to amend should be granted”.

31. In all the circumstances of this case, I am prepared to accept that the opponents only considered that an objection under section 5(1) of the Act was appropriate at some time after 25 August 2000. Their request to amend their statement of case was filed on 8 September 2000 (some 10 working days later). Though the initial request to amend did not include reasons either for the delay in requesting the amendment or for the amendment itself, it is clear from the Trade Marks Registry’s own Tribunal Practice Notice 4/2000 that “the Registry will aim to give favourable consideration to such requests on the basis that it is likely to avoid a multiplicity of proceedings and thus help resolve the dispute between the parties quickly and at less cost”.

32. As indicated above, Mr Edenborough for the applicants urged me to consider the merits of the amendment and in so doing to disallow the amendment. However notwithstanding Mr Edenborough’s submissions and the early stage of these proceedings, I am not in a position (nor would it be appropriate for me) to say that the ground the opponents wish to add has no prospect of success. Once again I note that the Trade Marks Registry took a similar view in the official letter of 14 November 2000 when it said:“This is not because I feel the ground is plainly unarguable,.....”.

33. Consequently, notwithstanding the delay which occurred in requesting the amendment and the lack of reasons provided, but bearing in mind the Civil Procedure Rules together with the Registrar’s own Tribunal Practice Notice 4/2000 and the various authorities drawn to my attention, my view is that given the early stage of these proceedings the addition of the ground under section 5(1) of the Act should be allowed. In reaching this view, I think that the prejudice to the applicants will be minimal and that allowing the addition of the ground at this early stage may ultimately avoid a multiplicity of proceedings. In so far as the merits of the amendment are concerned, quite clearly the opponents view the ground as “highly relevant”. While the Trade Marks Registry should not allow clearly unarguable grounds to be added to statements of case, this is not, in my view, the case here.

34. I made no order as to costs.

Dated this 18 Day of December 2001.

C J BOWEN
For the Registrar
The Comptroller-General

Annex A: 0/370/00