

Ms N. Chick and Mr A. Bartlett
Intellectual Property Office
Concept House
Cardiff Road
Newport
NP10 8QQ

30th January 2020

Dear Ms Chick and Mr Bartlett,

We are writing further to the MDF meeting of 8th January 2020 in which the new online renewals proposal was discussed. CITMA are very supportive of this new initiative in all respects except one, namely the proposed removal of the dies non provision. Please do appreciate, though, that it is an extremely important exception for the reasons set out below.

It is standard practice for our members always try to obtain renewal instructions from our clients in good time before the deadline; several renewal reminders are sent, in most cases beginning several months, sometimes even more than a year, before the deadline. Nevertheless, our member firms act for a great range of clients, including multinationals and private applicants. It sometimes happens that clients only provide instructions on the very last day. Not uncommonly, instructions are sent over the weekend for a date which falls on that weekend. Our members will have urged that the instructions are given long before, but this does not prevent them coming on Saturday or Sunday because the client has the expectation and knowledge from many years, that the instruction is sent in due time because Monday "counts" in most territories. This corresponds with the ongoing standard practice in most countries internationally. If this were to change, the UK would become an exception to the rule.

If the dies non provision is removed, our members will inevitably receive weekend instructions on what will then be a truly final date. Our members will feel a professional duty to honour such instructions for their clients, just as they do at present.

This has wide-reaching implications. Many member firms will feel it necessary to put in place a skeleton staff on Saturdays and Sundays. Similarly, in-house counsel who receive internal instructions from other departments of their international businesses will feel that they must monitor incoming instructions over the weekend. While the push for improved mental health and well-being in the legal sector has encouraged more flexible working hours, weekend working is not standard practice. Quite the contrary, in fact: firms are increasingly encouraging their staff to disengage from work over the weekend in order to come to work on Monday mentally revitalised. The proposed, seemingly small, change in practice has the potential not only to negate improvements in this area but also to introduce shift working practices that will have the opposite result.

A further concern is the potential for indirect discrimination against those whose religion observe a holy day at the weekend, as these new provisions could necessitate work to be carried out on days on which their religion forbids working. This would introduce

complexities that do not currently exist in both the recruitment and staffing arrangements of member firms and could easily be avoided by retaining the dies non provision.

This change will also inevitably, at some point, lead to inadvertent losses of rights, if the final date of the sixth-month grace period for late renewal falls at the weekend. There is too much potential for error: for example, whether for a private individual registrant or for a company or for a firm, if there is a credit card problem or they need to go into a bank to top up their deposit account, or even to create a deposit account, but cannot do so. This could be mitigated if the proposal were deemed not to relate to the grace period, but only to the initial six-month period: in which case it would effectively become a fine for those who seek to make the payment on what they had believed to be the last day, but which is now, in the UK only, considered late. However, that does not seem fair, and will doubtless lead to further correspondence and confusion about the unexpectedly increased fee (being a fee for late payment).

Please appreciate that we are fully supportive of the issuance of renewal e-receipts at the weekend; that is not a concern at all. Moreover, it is not necessary for the renewal receipt to be issued at the weekend with a forward date. If the auto-generated receipt states that "The renewal has been duly paid and accepted. The date of the payment is X.", and if the Monday after the weekend or the date after a Bank Holiday was deemed valid for the payment, as it presently is, then there would be no problem.

CITMA is a strong supporter of the UKIPO and supports the new online renewals proposal in principle, but we urge you in the strongest terms to continue to permit renewal on the next working day, as you do at present. Enabling users to have access 24/7 to an online renewals platform could be a very positive change, but only if that change does not place greater burdens, costs and stresses on users, which would be the case if the dies non provision is removed as a result.

If necessary, we consider this to be a sufficiently important point for a new S.I. to be introduced (or the current Brexit-related S.I. to be amended) to allow both for the issuance of renewal receipts on non-working days and the retention of non-working days to allow for payments on the next working day.

With best regards



Tania Clark
President

The position and contents of this letter have been endorsed by the following firms:

Astellas Pharma	Baker & McKenzie LLP	Barker Brettell
Beck Greener	Boult Wade Tennant LLP	British American Tobacco
CMS	Edwin Coe LLP	Elkington & Fife
HGF Limited	Mewburn Ellis	Pinsent Masons LLP
Potter Clarkson LLP	Serjeants	Withers & Rogers LLP