

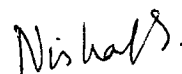
REGISTRATION DEPARTMENT

Ref: CMD 3/ 8:1

30 Dec 2015

Subject: Guidelines for Nomination of Authorized Indian Representative for Foreign Applicants

The Guidelines for Nomination of Authorized Indian Representative for Foreign Applicants finalized by the Competent Authority are attached herewith. These guidelines are applicable to all applicants for fresh registration or renewal of existing registration received by the Bureau on or after 01 February 2016.



Nishat S Haque

Head(Registration)

GUIDELINES FOR NOMINATION OF AUTHORIZED INDIAN REPRESENTATIVE FOR FOREIGN APPLICANTS

Rule 16B (4) of the BIS Rules, 1987, states that every foreign applicant shall set up a liaison office or branch office located in India which shall meet all liabilities and obligations with respect to the BIS Act, 1986, and the Rules and Regulations framed thereunder for the purpose of registration, on behalf of the foreign manufacturer.

2. The said BIS Rules, 1987, further lay down that the requirement to set up an office in India shall not apply if the Bureau enters into a Memorandum of Understanding with the concerned country for implementation of the Act and the Rules and Regulations framed thereunder, or if the foreign applicant nominates an authorized representative located in India who declares his consent to be responsible for compliance to the provisions of the Act and the Rules and Regulations framed thereunder on behalf of the foreign applicant.

3. In order to ensure compliance to the rules and considering the difficulties being faced in operation of the registration scheme, it has been decided that before the Registration is granted, the foreign manufacturer shall provide the details of its liaison office or branch office in India, together with Certificate issued by the Registrar of Companies or any other relevant document from Government/Statutory Authorities which establish proof of such office having been so set up, and an affidavit cum undertaking (on Rs 100/- non-judicial stamp paper, duly notarized) from the CEO/MD/authorized employee of said liaison office/branch office, declaring its consent to meet all liabilities and obligations with respect to the BIS Act, 1986, and the Rules and Regulations framed thereunder for the purpose of Registration, and clearly indemnifying the Bureau from any liability arising out of the Registration, on behalf of the foreign manufacturer. Model Affidavit cum Undertaking in this regard is as per **Format A**.

4. In case, however, the foreign manufacturer **does not have a liaison office or branch office in India**, the nomination of their authorized representative in India shall be as follows:

- a) **Brand Owner, i.e. Proprietor or Registered User of the Brand/Trademark, located in India:** Before grant of Registration, the foreign manufacturer may nominate the Brand Owner i.e. Proprietor or Registered User located in India of the Brand/Trademark appearing on the article, as their authorized representative.

In such eventuality, the following documents will be required to be submitted to the Bureau:

- i) Document establishing the nominee as the Brand Owner or Proprietor or Registered User of the Brand/Trademark in question;
- ii) Document authenticating the identity of the nominee (such as Certificate issued by Registrar of Companies, etc); and

- iii) An affidavit cum undertaking (on Rs 100/- non-judicial stamp paper, duly notarized) from the said Brand Owner or Proprietor or Registered User of the Brand/Trademark located in India or its CEO/MD/authorized employee, as the case may be, accepting the nomination, declaring its consent to be responsible for compliance to the provisions of the Act and the Rules and Regulations framed thereunder, and clearly indemnifying the Bureau from any liability arising out of the Registration, on behalf of the foreign applicant. Model Affidavit cum Undertaking in this regard is as per **Format B**.

- b) **Any other Entity:** In the event that there is no Proprietor or Registered User of the Brand/Trademark located in India, the foreign manufacturer, before grant of Registration, may nominate any other entity located in India as its authorized representative.

In such eventuality, the following documents will be required to be submitted to the Bureau:

- i) Document establishing legal status of the entity (Company, Firm, or Proprietorship) such as Certificate issued by Registrar of Companies, Registered Partnership Deed, etc;
- ii) An affidavit cum undertaking (on Rs 100/- non-judicial stamp paper, duly notarized) by the CEO/MD/authorized employee of the said entity located in India, as the case may be, accepting the nomination, declaring its consent to be responsible for compliance to the provisions of the Act and the Rules and Regulations framed thereunder, and clearly indemnifying the Bureau from any liability arising out of the Registration, on behalf of the foreign applicant. The entity shall also declare in said affidavit cum undertaking that it has no linkage with any laboratory and that it will not engage in any activity that is in conflict with the interest of the Bureau. Model Affidavit cum Undertaking in this regard is as per **Format B**.

5. With this, the existing agreement is replaced by Affidavit cum Undertaking. This shall be applicable to all Applications for fresh Registration or Renewal of existing Registration, received by the Bureau on or after 01 February 2016.

MODEL AFFIDAVIT CUM UNDERTAKING

(TO BE FURNISHED BY MANUFACTURER'S BRANCH OFFICE/LIAISON OFFICE LOCATED IN INDIA, BEFORE GRANT OF REGISTRATION)

(On Rs 100/- non-judicial stamp paper, duly notarized)

I,, aged about years, by occupation CEO/MD/Proprietor/authorized employee (designation.....) of M/s (the liaison office / branch office, in India), having its Registered Office/Head Office at (address in India), do hereby solemnly affirm and declare as under:

1. That M/s..... (the liaison office / branch office, in India) has been set up in India by M/s (foreign applicant) having its factory/manufacturing address at (address of foreign applicant) in accordance with Rule 16 B (4) of the BIS Rules, 1987, for the purpose of BIS Registration of its articles.
2. That I have been duly authorized to give this affidavit cum undertaking (authorization appended herewith).
3. That M/s (the liaison office / branch office, in India) does hereby undertake to meet all liabilities and obligations with respect to the BIS Act, 1986, and the Rules and Regulations framed thereunder, on behalf of M/s (foreign applicant) for the purpose of all Registrations granted / to be granted by BIS. M/s (the liaison office / branch office, in India) further undertakes that this undertaking shall not be revoked during the operation of any of the Registrations without prior consent of the Bureau.
4. That without prejudice to the generality of the foregoing declaration, M/s (the liaison office / branch office, in India) accepts and undertakes to be responsible for compliance of all terms and conditions of the Registrations and to be liable to meet all outstanding financial dues to BIS that may arise at any stage in connection with any of the Registrations.
5. That M/s (the liaison office / branch office, in India) accepts and undertakes full liability in case of violation of any provision of the BIS Act, 1986, or the Rules and Regulations framed thereunder, arising out of any act or omission on the part of the foreign applicant.
6. That I declare that M/s (the liaison office / branch office, in India) has no commercial or business relationship with any laboratory affecting the interest of BIS and that it will not engage in any activity that is in conflict with the interest of BIS in general and the Registration Scheme in

particular. I fully understand that any violation of this may lead to cancellation of the Registrations, apart from other actions as per law.

7. That M/s (the liaison office / branch office, in India) as well as the undersigned i.e. deponent, undertake to fully indemnify BIS from any loss arising out of any of the Registrations granted / to be granted, jointly and severally, on behalf of the foreign applicant.

In witness whereof, I do hereby sign and execute this affidavit cum undertaking on this theday of, 20.....

Signed, sealed and delivered by the abovenamed.

(DEPONENT)

(Signature with seal and stamp)

(Signature, stamp and seal of Notary Public)

MODEL AFFIDAVIT CUM UNDERTAKING

(TO BE FURNISHED BY THE BRAND OWNER; OR PROPRIETOR/REGISTERED USER OF BRAND/TRADEMARK; OR ANY OTHER ENTITY LOCATED IN INDIA, BEFORE GRANT OF REGISTRATION)

(On Rs 100/- non-judicial stamp paper, duly notarized)

I,, aged about years, by occupation CEO/MD/Proprietor/authorized employee (designation.....) of M/s (the nominated Company/Firm/Proprietorship in India), having its Registered Office/Head Office at (address in India), do hereby solemnly affirm and declare as under:

1. That M/s..... (foreign applicant) having its factory/manufacturing address at (address of foreign applicant) has nominated M/s (the nominated Company/Firm/Proprietorship in India) as its authorized representative located in India in pursuance of Rule 16B(4) of the BIS Rules, 1987, regarding BIS Registration of its article.....(details of article alongwith brand and Indian Standard concerned).
2. That I have been duly authorized to give this affidavit cum undertaking (authorization appended herewith).
3. **That I hereby declare that M/s (the nominated Company/Firm/Proprietorship in India) is the Brand Owner/Proprietor/Registered User of the Brand/Trademark appearing on said article.
4. That M/s (the nominated Company/Firm/Proprietorship in India) does hereby unconditionally accept the nomination and give consent to be responsible for compliance to the provisions of the BIS Act, 1986, and the Rules and Regulations framed thereunder, on behalf of M/s (foreign applicant) for the purpose of Registration of the said article(s). M/s (the nominated Company/Firm/Proprietorship in India) further undertakes that this consent shall not be revoked during the operation of the Registration without prior consent of the Bureau.
5. That without prejudice to the generality of the foregoing declaration, M/s (the nominated Company/Firm/Proprietorship in India) accepts and undertakes to be responsible for compliance of all terms and conditions of the Registration and to be liable to meet all outstanding financial dues to BIS that may arise at any stage in connection with the Registration.

6. That M/s (the nominated Company/Firm/Proprietorship in India) accepts and undertakes full liability in case of violation of any provision of the BIS Act, 1986, or the Rules and Regulations framed thereunder, arising out of any act or omission on the part of the foreign applicant.
7. That I declare that M/s (the nominated Company/Firm/Proprietorship in India) has no commercial or business relationship with any laboratory affecting the interest of BIS and that it will not engage in any activity that is in conflict with the interest of BIS in general and the Registration Scheme in particular. I fully understand that any violation of this may lead to cancellation of the Registration, apart from other actions as per law.
8. That M/s (the nominated Company/Firm/Proprietorship in India) as well as the undersigned i.e. deponent, undertake to fully indemnify BIS from any loss arising out of the Registration to be granted, jointly and severally, on behalf of the foreign applicant.

In witness whereof, I do hereby sign and execute this affidavit cum undertaking on this theday of, 20.....

Signed, sealed and delivered by the abovenamed

(DEPONENT)

(Signature with seal and stamp)

(Signature, stamp and seal of Notary Public)

** Applicable only if the nominated Company/Firm/Proprietorship is the Brand Owner/Proprietor/Registered User of the Brand/Trademark appearing on the article in question.