

(3) When a collective mark, is registered under subsection (1) it shall be deemed in all respects to be a registered mark.

(4) The conditions governing the use of a registered collective mark shall be open for public inspection in the same way as the register.

Changes in condition governing the use of collective marks.

141. (1) The registered owner of a collective mark shall notify the Director-General in the prescribed manner of any change or amendments effected in the conditions governing the use of the collective mark.

(2) Any notification of such change or amendment shall be recorded in the register on payment of the prescribed fee. Any such change or amendment in the condition shall be effectual only if they have been recorded.

(3) The Director-General shall cause a summary of such changes and amendments made in the conditions and recorded under subsection (2) to be published in the Gazette.

CHAPTER XXIX

CERTIFICATION MARKS

Certification marks.

142. (1) Subject to the provisions of this Chapter, provisions relating to marks shall apply to certification marks.

(2) In relation to a certification mark the reference in section 101 (signs of which a trade mark or service mark may consist) to distinguish goods or services of one enterprise from those of another enterprise shall be construed as a reference to distinguish goods or services which are certified from those which are not certified.

(3) Notwithstanding the provisions of section 103, a certification mark which consists of a sign or indication which may serve in trade to designate the geographical origin of the goods and services may be registered :

Provided, however, the owner of such mark is not entitled to prohibit the use of such sign or indication in accordance with honest practices in industrial or commercial matters and in particular by a person who is entitled to use a geographical name.

(4) An application for registration of a certification mark shall not be filed unless in the application the mark is designated as a certification mark and is accompanied by a copy of the conditions governing the use of the mark duly certified by the applicant.

(5) The conditions shall indicate the name of the person authorised to use the mark, the characteristics to be certified by the mark, how the owner is to test those characteristics and to supervise the use of the mark, the fees (if any) to be paid in connection with the operation of the mark and the procedures for resolving disputes. They may in addition contain further prescribed requirements under this section.

(6) A certification mark shall not be registered—

(a) if the owner of the certification mark carries on a business involving the supply of goods or services of the kind certified ; and

(b) unless the conditions governing the use of the mark,—

(i) comply with the provisions of subsection (5) and any other requirement imposed by regulations made under that subsection ; and

(ii) are not contrary to public policy or accepted principles of morality.

(7) In infringement proceedings brought by the owner of the registered certification mark any loss suffered, or likely to be suffered, by any authorised user shall be taken into account ; and the Court may give such directions as it thinks fit as to the extent to which the owner is to hold the proceeds of any pecuniary remedy on behalf of such users.

(8) Apart from the grounds of removal of a mark provided for in section 136, the registration of a certification mark may be removed on the ground—

- (a) that the owner has commenced such a business as is mentioned in paragraph (a) of subsection (6) ;
- (b) that the manner in which the mark has been used by the owner has caused it to become liable to mislead the public as to the character of significance of the mark ;
- (c) that the owner has failed to observe, or to secure observance of, the conditions governing the use of the mark ;
- (d) that the owner is no longer competent to certify the goods or services for which the mark is registered ;
- (e) that an amendment of the conditions have been made so that the conditions—
 - (i) no longer comply with the provisions of subsection (5) and any other condition imposed by regulations ;
 - (ii) are contrary to public policy and order or to the accepted principles of morality.

(9) Apart from the grounds of nullity provided in section 134 the registration of a certification mark may be declared null and void if it was registered contrary to the provisions of subsections (3), (4) and (5).

(10) (a) Registration of a certification mark shall be in such part of the register as the Director-General may decide, and a copy of the conditions, governing the use of the mark, shall be appended to such registration.

(b) The publication of an application of a certification mark shall be in accordance with subsection (9) of section 111, which shall include a summary of the conditions to be appended to the registration.

(c) A certification mark registered under subsection (4) shall be deemed for all purposes be a registered mark.

(d) The conditions governing the use of a certification mark shall be open for public inspection in the same manner as the register.

(11) (a) The registered owner of a certification mark shall notify the Director-General in prescribed manner of any changes or amendments effected to the conditions governing the use of the mark.

(b) Any notification of such changes and amendments shall be recorded in the register on the payment of prescribed fee. Any change or amendment of conditions shall come into force only if they have been so recorded.

(c) The Director-General shall cause to be published in the Gazette a summary of the changes or amendments so recorded in the register.

PART VI

CHAPTER XXX

TRADE NAMES

143. A name or designation shall not be admissible as a trade name if, by reason of its nature or the uses to which it may be put, it is contrary to morality or public order or is likely to offend the religious or racial susceptibilities of any community or is likely to mislead trade circles or the public as to the nature of the enterprise identified by that name.

Prohibited trade names.