

The Consolidate Collective Marks Act

Publication of the Collective Marks Act No. 342 of 6 June 1991 including the amendments which follow from section 5 of Act No. 1370 of 28 December 2011.¹⁾

1.-(1) A collective mark is an association mark or a certification mark.

(2) An association mark is a specific sign which belongs to an association of enterprises and which is used or intended to be used by its members for goods or services.

(3) A certification mark is a specific sign which belongs to a legal entity supervising or laying down standards for goods or services and which is used or intended to be used for the goods or services which are the object of supervision or for which standards are laid down.

2.²⁾- The rules of the Trade Marks Act, including rules concerning fees, shall apply to collective marks to the extent they are applicable according to their nature, unless otherwise provided for in the following sections.

3.- Signs or indications which are used in the course of trade to designate the geographical origin of goods or services may, irrespective of the provision of section 13(2)(i) of the Trade Marks Act, constitute a collective mark. The mark shall not entitle the proprietor to prohibit a third party from using such signs or indications in the course of trade, provided that they are used in accordance with honest practices in industrial or commercial matters.

In particular, the mark may not be invoked against any third party who is entitled to use a certain geographical name.

4.³⁾-(1) Collective marks shall be registered in the Register of Collective Marks.

(2) Applications for the registration of collective marks shall contain the information referred to in section 12 of the Trade Marks Act and shall state the conditions which have been laid down for the use of the mark.

(3) The Minister of Business and Growth shall lay down further provisions concerning applications, concerning priority claims, cf. sections 18 and 19 of the Trade Marks Act, concerning registrations and deletions of collective marks, concerning the arrangement and keeping of the Register, concerning the publication of registrations, etc. and concerning the payment for special transactions, publications, transcripts, courses, etc.

5.- The proprietor shall communicate any later amendments of the conditions concerning the use of the mark to the Patent and Trademark Office not later than three months after the amendments have been adopted.

6.- The transfer of a registered collective mark may be entered in the Register, unless the mark after the transfer is liable to mislead.

7.-(1) Section 25 of the Trade Marks Act shall apply to collective marks with the additions provided for in subsection 2.

(2) The following shall also be regarded as use in accordance with section 25(1) of the Trade Marks Act:

- (i) Use of an association mark by at least one enterprise which is entitled to use the mark.
- (ii) Use of a certification mark by at least one enterprise with the consent of the proprietor.

8.- The registration of a collective mark may be revoked if

- (i) there are circumstances corresponding to those referred to in section 28 of the Trade Marks Act,
- (ii) the mark is contrary to general public interests or
- (iii) the proprietor has not communicated amendments of the conditions laid down for the use of the mark.

9.- Proceedings concerning the infringement of a collective mark shall only be brought by the proprietor of the mark. The party who infringes a collective mark right and who is liable to pay damages pursuant to the Trade Marks Act shall be liable to compensate for the injury which might be suffered by the proprietor of the mark or by those entitled to use the mark.

10.- If the Minister of Business and Growth refers his rights under this Act to the Patent and Trademark Office, the Minister may lay down rules concerning the right of appeal including rules to the effect that appeals may not be brought before any higher administrative authority.

11.-(1) This Act shall enter into force on 1 January 1992, and at the same time the Collective Marks Act, cf. Consolidate Act No. 250 of 17 April 1989, shall be repealed.

(2) The administrative rules laid down pursuant to the Collective Marks Act, cf. subsection 1, shall remain in force until they are replaced by provisions issued under this Act.

(3) With respect to collective marks which are registered prior to 31 December 1991, the five-year period under section 7, cf. section 25 of the Trade Marks Act, shall not commence until 1 January 1992.

12.- Applications which, at the time of entry into force of this Act, have not been published in accordance with the previous provisions shall be examined and processed pursuant to the provisions of this Act.

13.⁴⁾ This Act shall not apply to the Faeroe Islands and Greenland, but may by Royal Ordinance be put into force for the Faeroe Islands and Greenland with such deviations as the special Faeroese and Greenland circumstances may require.

Act No. 1370 of 28 December 2011 contains the following provisions as to entry into force and transitional provisions:

Section 9

This Act shall enter into force on 1 February 2012.

The Ministry of Business and Growth, 24 January 2012

OLE SOHN

/Jesper Kongstad

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- ¹⁾ This Consolidate Act contains information about provisions as to entry into force and transitional provisions adopted during the sessional year 2011/2012 of the Danish Parliament (the Folketing). The amendments indicated below in consequence of Act No. 1370 of 28 December 2011 to Amend the Patents Act and various other Acts shall not apply to the Faeroe Islands and Greenland, but may by Royal Ordinance be put into force for the Faeroe Islands and Greenland with such deviations as the circumstances of the Faeroe Islands and Greenland may require.
- ²⁾ Section 2 in the wording of this Act entered into force on 1 February 2012, cf. Act No. 1370 of 28 December 2011.
- ³⁾ Section 4(3) in the wording of this Act entered into force on 1 February 2012, cf. Act No. 1370 of 28 December 2011.
- ⁴⁾ The Collective Marks Act No. 342 of 6 June 1991 was put into force for Greenland on 1 January 1992 by Royal Ordinance No. 856 of 16 December 1991 and for the Faeroe Islands on 1 June 1994 by Royal Ordinance No. 331 of 4 May 1994.