

Collective Marks Act*
(Act No. 342 of June 6, 1991)

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 is intended to be used for the goods or services which are the object of supervision or for which standards are laid down.

2. The rules of the Trademarks Act 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 may serve in trade to designate the geographical origin of the goods or services may, irrespective of the provision of Section 13(2)(i) of the Trademarks Act¹, 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 he uses them 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.—(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 Trademarks Act and shall state the conditions which have been laid down for the use of the mark.

(3) The Minister of Industry shall lay down further provisions concerning applications, priority claims, cf. Sections 18 and 19 of the Trademarks Act, registrations and deletions of collective marks, the arrangement and keeping of the Register, the publication of registrations, etc., and concerning fees for the filing and processing of applications, handling fees, fees for office copies, etc.

5. The proprietor shall communicate any later amendments in the conditions concerning the use of the mark to the Patent Office within three months after the amendments have been adopted.

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

7.—(1) Section 25 of the Trademarks Act shall apply to collective marks with the additions provided in subsection (2).

(2) The following shall also be regarded as use in accordance with Section 25(1) of the Trademarks 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 mentioned in Section 28 of the Trademarks Act;

(ii) the mark is contrary to general public interest; or

(iii) the proprietor has not communicated amendments of the conditions laid down for the use of the mark.

9. Proceedings concerning infringement of a collective mark shall only be brought by the proprietor of the mark. The party who infringes a right in a collective mark and who is liable to pay damages pursuant to the Trademarks Act shall be liable to compensate the loss suffered by the proprietor of the mark or by the persons entitled to use the mark.

10. If the Minister of Industry transfers his authority under this Act to the Patent 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 January 1, 1992, and at the same time the Consolidated Collective Marks Act, No. 250 of April 17, 1989, shall be repealed.

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

(3) For collective marks which are registered prior to December 31, 1991, the five-year period under Section 7, cf. Section 25 of the Trademarks Act, shall not commence until January 1, 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 processed pursuant to the provisions of this Act.

13. This Act shall not apply to the Faroe Islands and Greenland, but may by Royal Decree be put into force for the Faroe Islands and Greenland with the amendments deemed appropriate considering the special Faroese and Greenland conditions.

* *Danish title:* Fællesmærkelov.

Entry into force: January 1, 1992.

Source: Communication received from the Danish authorities.

Note: English translation furnished by the Danish authorities.

¹ See *Industrial Property Laws and Treaties*, DENMARK — Text 3-001 (*Editor's note*).