



Trade Marks Act 1994

1994 CHAPTER 26

PART I

REGISTERED TRADE MARKS

Grounds for refusal of registration

3 Absolute grounds for refusal of registration.

(1) The following shall not be registered—

- (a) signs which do not satisfy the requirements of section 1(1),
- (b) trade marks which are devoid of any distinctive character,
- (c) trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services,
- (d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the *bona fide* and established practices of the trade:

Provided that, a trade mark shall not be refused registration by virtue of paragraph (b), (c) or (d) above if, before the date of application for registration, it has in fact acquired a distinctive character as a result of the use made of it.

(2) A sign shall not be registered as a trade mark if it consists exclusively of—

- (a) the shape^[F1], or another characteristic,] which results from the nature of the goods themselves,
- (b) the shape^[F1], or another characteristic,] of goods which is necessary to obtain a technical result, or
- (c) the shape^[F1], or another characteristic,] which gives substantial value to the goods.

(3) A trade mark shall not be registered if it is—

- (a) contrary to public policy or to accepted principles of morality, or

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Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Section 3. (See end of Document for details)

- (b) of such a nature as to deceive the public (for instance as to the nature, quality or geographical origin of the goods or service).
- (4) A trade mark shall not be registered if or to the extent that its use is prohibited in the United Kingdom by any enactment or rule of law or by any provision of [^{F2}EU] law [^{F3}other than law relating to trade marks].
- [^{F4}(4A) A trade mark is not to be registered if its registration is prohibited by or under—
- (a) any enactment or rule of law,
 - (b) any provision of EU law, or
 - (c) any international agreement to which the United Kingdom or the EU is a party, providing for the protection of designations of origin or geographical indications.
- (4B) A trade mark is not to be registered if its registration is prohibited by or under—
- (a) any provision of EU law, or
 - (b) any international agreement to which the EU is a party, providing for the protection of traditional terms for wine or traditional specialities guaranteed.
- (4C) A trade mark is not to be registered if it—
- (a) consists of, or reproduces in its essential elements, an earlier plant variety denomination registered as mentioned in subsection (4D), and
 - (b) is in respect of plant varieties of the same or closely related species.
- (4D) Subsection (4C)(a) refers to registration in accordance with any—
- (a) enactment or rule of law,
 - (b) provision of EU law, or
 - (c) international agreement to which the United Kingdom or the EU is a party, providing for the protection of plant variety rights.]

(5) A trade mark shall not be registered in the cases specified, or referred to, in section 4 (specially protected emblems).

(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith.

Textual Amendments

- F1** Words in s. 3(2) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), 4(2) (with Pt. 5)
- F2** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F3** Words in s. 3(4) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), 4(3) (with Pt. 5)
- F4** S. 3(4A)-(4D) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), 4(4) (with Pt. 5)

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