

COLLECTIVE TRADE MARKS

The 1996 Trade Marks Act allows for the registration of Collective Marks.

The Act defines a Collective Mark as "*a mark distinguishing the goods or services of members of the association which is the proprietor of the mark from those of other undertakings*".

Any association, which authorises its members to use a mark in relation to certain goods or services, can apply to register a Collective Mark.

Section 54 of the Trade Marks Act 1996 makes it clear that the Association is the Proprietor of the mark and that a Collective Mark must serve to distinguish the goods and / or services of the members of the association from those of other undertakings.

Unlike standard trade marks, a Collective Mark, may be registered if it consists of signs or indications which may serve, in trade, to designate the geographical origin of the goods or service.

An applicant for a Collective Mark must supply a copy of the regulations governing the use of the mark. The regulations must be filed within six months of lodging the application.

Regulations governing the use of Collective Marks should be clearly headed and contain the following information:

- **Who is authorised to use the mark**

The regulations must specify the persons authorised to use the mark. The applicant may define authorised users of the Collective Mark by category (associate, full, honorary). Simply saying "anyone who is a member" would not be sufficient and the conditions of membership must make it clear who that might be.

- **The conditions of membership of the association**

The regulations must include the conditions of membership of the applicant association either within the body of the regulations or as a schedule to the regulations.

- **The conditions of use of the mark, indicating any sanction(s) against misuse**

If the applicant has set "conditions or standards and criteria" etc, which its members must meet when using the mark, these should be included within the regulations or as a schedule, appropriately cross-referenced.

When filing the regulations, the Applicant should not submit any material which does not relate specifically to the three criteria listed above.

A Collective Mark may proceed to acceptance provided the following conditions are met:

- It is registrable as a Trade Mark
- The regulations governing the use of the mark are satisfactory

Before an application for a Collective Mark is accepted, the Controller may request that the mark contain some indication that the mark is, a Collective Mark.

The fees are the same as for other trade mark applications, other than a fee of €125.00 for filing the Regulations.

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Note. This information is intended as a guide only and does not purport to be a legal interpretation.