



# Trade Marks Act 1994

## 1994 CHAPTER 26

### PART IV

#### MISCELLANEOUS AND GENERAL PROVISIONS

##### *Interpretation*

#### **102 Adaptation of expressions for Scotland.**

In the application of this Act to Scotland—

- “account of profits” means accounting and payment of profits;
- “accounts” means count, reckoning and payment;
- “assignment” means assignation;
- “costs” means expenses;
- “declaration” means declarator;
- “defendant” means defender;
- “delivery up” means delivery;
- “injunction” means interdict;
- “interlocutory relief” means interim remedy; and
- “plaintiff” means pursuer.

#### **103 Minor definitions.**

(1) In this Act—

- “business” includes a trade or profession;
- “director”, in relation to a body corporate whose affairs are managed by its members, means any member of the body;
- “infringement proceedings”, in relation to a registered trade mark, includes proceedings under section 16 (order for delivery up of infringing goods, &c.);
- “publish” means make available to the public, and references to publication—

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- (a) in relation to an application for registration, are to publication under section 38(1), and
- (b) in relation to registration, are to publication under section 40(4);
- “statutory provisions” includes provisions of subordinate legislation within the meaning of the <sup>M1</sup>Interpretation Act 1978;
- “trade” includes any business or profession.
- (2) References in this Act to use (or any particular description of use) of a trade mark, or of a sign identical with, similar to, or likely to be mistaken for a trade mark, include use (or that description of use) otherwise than by means of a graphic representation.
- (3) References in this Act to [<sup>F1</sup>an EU] instrument include references to any instrument amending or replacing that instrument.

#### Textual Amendments

**F1** 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))

#### Marginal Citations

**M1** 1978 c. 30.

## 104 Index of defined expressions.

In this Act the expressions listed below are defined by or otherwise fall to be construed in accordance with the provisions indicated—

account of profits and accounts (in Scotland)	section 102
appointed person (for purposes of section 76)	section 77
assignment (in Scotland)	section 102
business	section 103(1)
certification mark	section 50(1)
collective mark	section 49(1)
commencement (of this Act)	section 109(2)
<b>F2</b>	<b>F2</b>
. . .	. . .
<b>F3</b>	<b>F3</b>
. . .	. . .
Convention country	section 55(1)(b)
costs (in Scotland)	section 102
the court	section 75
date of application	section 33(2)
date of filing	section 33(1)

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date of registration	section 40(3)
defendant (in Scotland)	section 102
delivery up (in Scotland)	section 102
director	section 103(1)
earlier right	section 5(4)
earlier trade mark	section 6
[ <sup>F4</sup> European Union trade mark]	[ <sup>F4</sup> section 51]
[ <sup>F5</sup> European Union Trade Mark Regulation]	[ <sup>F5</sup> section 51]
exclusive licence and licensee	section 29(1)
infringement (of registered trade mark)	sections 9(1) and (2) and 10
infringement proceedings	section 103(1)
infringing articles	section 17
infringing goods	section 17
infringing material	section 17
injunction (in Scotland)	section 102
interlocutory relief (in Scotland)	section 102
the International Bureau	section 53
[ <sup>F6</sup> international trade mark ( EC ) ]	[ <sup>F6</sup> section 53]
international trade mark (UK)	section 53
Madrid Protocol	section 53
Paris Convention	section 55(1)(a)
plaintiff (in Scotland)	section 102
prescribed	section 78(1)(b)
protected under the Paris Convention	
—well-known trade marks	section 56(1)
—state emblems and official signs or hallmarks	section 57(1)
—emblems, &c. of international organisations	section 58(2)
publish and references to publication	section 103(1)
register, registered (and related expressions)	section 63(1)
registered trade mark [ <sup>F7</sup> attorney ]	section 83[ <sup>F8</sup> (2)]
registrable transaction	section 25(2)
the registrar	section 62

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rules	section 78
statutory provisions	section 103(1)
trade	section 103(1)
trade mark	
—generally	section 1(1)
—includes collective mark or certification mark	section 1(2)
United Kingdom (references include Isle of Man)	section 108(2)
use (of trade mark or sign)	section 103(2)
well-known trade mark (under Paris Convention)	section 56(1)

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#### Textual Amendments

- F2** Words in s. 104 omitted (6.4.2016) by virtue of [The European Union Trade Mark Regulations 2016 \(S.I. 2016/299\)](#), [reg. 1\(1\)](#), [Sch. para. 3\(a\)](#) (with [reg. 13](#))
- F3** Words in s. 104 omitted (6.4.2016) by virtue of [The European Union Trade Mark Regulations 2016 \(S.I. 2016/299\)](#), [reg. 1\(1\)](#), [Sch. para. 3\(b\)](#) (with [reg. 13](#))
- F4** Words in s. 104 inserted (6.4.2016) by [The European Union Trade Mark Regulations 2016 \(S.I. 2016/299\)](#), [reg. 1\(1\)](#), [Sch. para. 3\(a\)](#) (with [reg. 13](#))
- F5** Words in s. 104 inserted (6.4.2016) by [The European Union Trade Mark Regulations 2016 \(S.I. 2016/299\)](#), [reg. 1\(1\)](#), [Sch. para. 3\(b\)](#) (with [reg. 13](#))
- F6** Words in s. 104 inserted (1.10.2004) by [Trade Marks \(International Registrations Designating the European Community, etc.\) Regulations 2004 \(S.I. 2004/2332\)](#), [regs. 1\(2\)](#), [6](#)
- F7** Word in s. 104 substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), [s. 211\(2\)](#), [Sch. 21 para. 115\(i\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), [art. 2\(h\)](#)
- F8** Word in s. 104 substituted (1.1.2010) by [Legal Services Act 2007 \(c. 29\)](#), [s. 211\(2\)](#), [Sch. 21 para. 115\(ii\)](#) (with [ss. 29, 192, 193](#)); [S.I. 2009/3250](#), [art. 2\(h\)](#)

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