
STATUTORY INSTRUMENTS

1996 No. 729

TRADE MARKS

The Trade Marks Act 1994 (Isle of Man) Order 1996

Made - - - - 13th March 1996

Coming into force - - 1st April 1996

At the Court at Buckingham Palace, the 13th day of March 1996

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of section 108(2) of the Trade Marks Act 1994⁽¹⁾, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. This Order may be cited as the Trade Marks Act 1994 (Isle of Man) Order 1996 and shall come into force on 1st April 1996.
2. The Trade Marks Act 1994 in its extension to the Isle of Man shall have effect subject to the exceptions and modifications specified in the Schedule to this Order.

N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

Article 2

EXCEPTIONS AND MODIFICATIONS SUBJECT TO WHICH THE
TRADE MARKS ACT 1994 EXTENDS TO THE ISLE OF MAN

1.—(1) Any reference to an Act of Parliament (including the Trade Marks Act 1994) or to a provision of such an Act shall be construed, unless the contrary intention appears, as a reference to that Act or provision as it has effect in the Isle of Man.

(2) Any reference to an Act of Tynwald shall be construed, unless the contrary intention appears, as a reference to it as amended or replaced by or under any other such enactment.

2. In section 18, for subsection (3) there shall be substituted—

“(3) In subsection (2) “disability” has the same meaning as in the Limitation Act 1984 (an Act of Tynwald).”.

3. In Section 19(6), for the words from “section 114,” to the end there shall be substituted the words “section 113 of the Copyright Act 1991 (an Act of Tynwald) or section 19 of the Design Right Act 1991 (an Act of Tynwald) (which make similar provision in relation to infringement of copyright and design right).”.

4. Section 20 shall be omitted.

5. Sections 51 and 52 shall be omitted.

6. In section 68, for subsection (2) there shall be substituted—

“(2) Any such order of the registrar may be enforced in the Isle of Man in the same way as an order of the High Court of Justice of the Isle of Man.”.

7. In section 75, after paragraph (a) there shall be inserted—

“(aa) in the Isle of Man, the High Court of Justice of the Isle of Man, and”.

8. In section 77(2), after paragraph (b) there shall be inserted—

“(ba) he is an advocate in the Isle of Man of at least 7 years' standing;”.

9. For section 86 there shall be substituted—

“**86.** No offence is committed under section 1 of the Legal Practitioners Registration Act 1986 (an Act of Tynwald) (which restricts the use of certain words including “advocate” and “attorney”) by the use of the term “trade mark attorney” in reference to a registered trade mark agent.”.

10.—(1) In sections 89, 90 and 91, for the words “Commissioners of Customs and Excise” and “Commissioners” wherever they appear there shall be substituted the word “Treasury”.

(2) In section 89(1)(b), for the words “United Kingdom” there shall be substituted the words “Isle of Man”.

(3) In section 89, for subsection (3) there shall be substituted—

“(3) This section does not apply to goods entered, or expected to be entered, for free circulation, export, re-export or for a suspensive procedure in respect of which an application may be made under Article 3(1) of Council Regulation (EC) No. 3295/94 laying down measures to prohibit the release for free circulation, export, re-export or for a suspensive procedure of counterfeit and pirated goods.

(4) In this section and sections 90 and 91, “the Treasury” means the Department of that name established under the Government Departments Act 1987 (an Act of Tynwald).”.

(4) In section 90, for subsections (4) and (5) there shall be substituted the following subsection:

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“(4) Regulations under this section shall not have effect unless they are approved by Tynwald.”.

(5) In section 91, for the words “Trade Descriptions Act 1968” there shall be substituted the words “Consumer Protection (Trade Descriptions) Act 1970 (an Act of Tynwald)”.

11. In sections 92(6)(b) and 94(3)(a), for the words “indictment” there shall be substituted the word “information”.

12. Sections 93, 96 and 98 shall be omitted.

13.—(1) In section 97(1), for the words “England and Wales or Northern Ireland” there shall be substituted the words “the Isle of Man”.

(2) In section 97(2)(b) and (5), for the words “magistrates' court” there shall be substituted the words “court of summary jurisdiction”.

(3) In section 97(5)—

(a) for paragraphs (a) and (b) there shall be substituted the words “in the Isle of Man, to the High Court of Justice of the Isle of Man;”;

(b) for the words from “section 111” to “1981” there shall be substituted the words “section 109 of the Summary Jurisdiction Act 1989 (an Act of Tynwald)”.

(4) In section 97(8), for the words “Trade Descriptions Act 1968” there shall be substituted the words “Consumer Protection (Trade Descriptions) Act 1970 (an Act of Tynwald)”.

14. In section 101(2)(b), for the words from “in England” to “1981” there shall be substituted the words “in the Isle of Man, section 32 of the Summary Jurisdiction Act 1989 (an Act of Tynwald)”.

15. Section 102 shall be omitted.

16. In the table in section 104, at the appropriate place there shall be inserted—

“the Treasury

section 89(4)”.

17.—(1) Section 106 and Schedules 4 and 5 shall have effect in relation only to statutory provisions which extend to the Isle of Man.

(2) In Schedule 4, at the appropriate places there shall be inserted the following paragraphs—

“Consumer Protection (Trade Descriptions) Act 1970 (an Act of Tynwald)

4. In the Consumer Protection (Trade Descriptions) Act 1970 (an Act of Tynwald), in section 34 (exemption of trade description contained in pre-1970 trade mark)—

(a) in the opening words, omit “within the meaning of the Trade Marks Act 1938 (an Act of Parliament as extended to the Isle of Man by section 71(4) thereof),”;

(b) in paragraph (c), for “a person registered under section 28 of the said Trade Marks Act 1938 as a registered user of the trade mark” substitute “, in the case of a registered trade mark, a person licensed to use it”.

Copyright Act 1991 (an Act of Tynwald)

8A. In section 113(6), for “section 58C of the Trade Marks Act 1938” substitute “section 19 of the Trade Marks Act 1994”.

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Design Right Act 1991 (an Act of Tynwald)

8B. In section 19(6), for “section 58C of the Trade Marks Act 1938” substitute “section 19 of the Trade Marks Act 1994”.

Consumer Protection Act 1991 (an Act of Tynwald)

8C.—(1) In section 58(1), for “section 58A (fraudulent application or use of trade mark) of the Trade Marks Act 1938” substitute “section 92 (unauthorised use of trade mark &c in relation to goods) of the Trade Marks Act 1994”.

(2) In section 58(3), for “58A” substitute “92”.

(3) In Schedule 5, at the appropriate places in chronological order there shall be inserted the following entries—

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| “XXI p.482 | Consumer Protection (Trade Descriptions) Act 1970 (an Act of Tynwald). | Section 17. |
| 1980 c. 18 (IOM) | Misrepresentation and Unfair Contract Terms Act 1980 (an Act of Tynwald). | In Schedule 1,, in words from “The reference” onwards. |
| 1989 c. 6 (IOM) | Statute Law Revision Act 1989 (an Act of Tynwald). | In Schedule 1,, paragraph 32.” |

EXPLANATORY NOTE

(This note is not part of the Order)

This Order specifies the exceptions and modifications subject to which the Trade Marks Act 1994 extends, by virtue of section 108(2), to the Isle of Man.