



# Trade Marks Act 1994

## 1994 CHAPTER 26

### PART I

#### REGISTERED TRADE MARKS

##### *Surrender, revocation and invalidity*

#### **46 Revocation of registration.**

- (1) The registration of a trade mark may be revoked on any of the following grounds—
  - (a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;
  - (b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;
  - (c) that, in consequence of acts or inactivity of the proprietor, it has become the common name in the trade for a product or service for which it is registered;
  - (d) that in consequence of the use made of it by the proprietor or with his consent in relation to the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services.
- (2) For the purposes of subsection (1) use of a trade mark includes use in a form [<sup>F1</sup>(the “variant form”)] differing in elements which do not alter the distinctive character of the mark in the form in which it was registered [<sup>F2</sup>(regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor)], and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.
- (3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as is referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

---

*Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Section 46. (See end of Document for details)*

---

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

- (4) An application for revocation may be made by any person, and may be made either to the registrar or to the court, except that—
- (a) if proceedings concerning the trade mark in question are pending in the court, the application must be made to the court; and
  - (b) if in any other case the application is made to the registrar, he may at any stage of the proceedings refer the application to the court.
- (5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.
- (6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from—
- (a) the date of the application for revocation, or
  - (b) if the registrar or court is satisfied that the grounds for revocation existed at an earlier date, that date.

#### Textual Amendments

- F1** Words in s. 46(2) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **22(a)** (with Pt. 5)
- F2** Words in s. 46(2) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **22(b)** (with Pt. 5)

#### Modifications etc. (not altering text)

- C1** S. 46 applied (with modifications) (1.4.1996) by [S.I. 1996/714](#), **art. 13**  
S. 46 applied (with modifications) (14.8.1996) by [S.I. 1996/1908](#), **reg. 3(3)**
- C2** S. 46(1)(a)(b) modified (20.5.2016) by [The Standardised Packaging of Tobacco Products Regulations 2015 \(S.I. 2015/829\)](#), regs. 1(2), **13(7)(8)** (with regs. 13(9), 14(5), 20)

**Changes to legislation:**

There are currently no known outstanding effects for the Trade Marks Act 1994, Section 46.