

ELIZABETH II



The Territories of South Georgia
and the South Sandwich Islands

DONALD ALEXANDER LAMONT,
Commissioner.

TRADE MARKS ORDINANCE 2001

(No. 2 of 2001)

ARRANGEMENT OF PROVISIONS

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3. Extension to the South Georgia and the South Sandwich Islands of protection for certain trade marks

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Trade Marks Ordinance 2001

(No. 2 of 2001)

An Ordinance

(assented to: 8th November 2001)
(commencement: in accordance with section 1)
(published: 19th November 2001)

To repeal the Registration of United Kingdom Trade Marks Ordinance, to provide that trade marks which have effect in the United Kingdom shall have effect in South Georgia and the South Sandwich Islands and for connected purposes.

ENACTED by the Commissioner of South Georgia and the South Sandwich Islands as follows—

Short title and commencement

1. This Ordinance may be cited as the Trade Marks Ordinance 2001 and shall come into force on such date as may be fixed by the Commissioner by notice published in the *Gazette*.

Repeal and saving

2.—(1) The Registration of United Kingdom Trade Marks Ordinance (“the disappplied Ordinance”) shall no longer have effect in South Georgia and the South Sandwich Islands.

(2) Notwithstanding subsection (1) but subject to subsection (3) of this section, the registration of any trade mark registered under the disappplied Ordinance which had effect immediately before the commencement of this Ordinance shall continue to have effect as if the Ordinance had not been disappplied.

(3) Where, by virtue of subsection (2) of this section, the registration of a trade mark continues to have effect, in respect of that trade mark section 9 of the Registration of United Kingdom Trade Marks Ordinance (power of the Supreme Court to declare that rights and privileges obtained by registration have not been acquired) shall continue to have effect as if that section had not been repealed, but without prejudice to the operation of section 3 of this Ordinance in respect of the trade mark in question.

Extension to South Georgia and the South Sandwich Islands of protection for certain trade marks

3.—(1) The proprietor of a trade mark which is in the United Kingdom a registered trade mark for the purposes of the Trade Marks Act 1994 (“the 1994 Act”) has exclusive rights in South Georgia and the South Sandwich Islands in that trade mark which are infringed by use of that trade mark in South Georgia and the South Sandwich Islands without his consent.

The acts amounting to infringement, if done without the consent of the proprietor, are those specified in section 10 of the 1994 Act, substituting “South Georgia and the South Sandwich Islands” for “United Kingdom” in that section, but a trade mark is not infringed by anything declared by sections 11 and 12 of the 1994 Act not to amount to infringement of it.

(2) Sections 14 to 19, 21 and 100 of the 1994 Act shall have effect in South Georgia and the South Sandwich Islands in and in relation to proceedings for infringement of a registered trade mark and so as to confer the like jurisdiction upon the Supreme Court as by virtue of those sections is in England enjoyed by the High Court.

(3) Sections 28 and 31 of the 1994 Act (licensing) shall have effect in South Georgia and the South Sandwich Islands in relation to all trade marks to which subsection (1) of this section relates.

(4) The provisions of the 1994 Act mentioned in the foregoing provisions of this section shall also have effect in South Georgia and the South Sandwich Islands —

(a) in relation to collective marks, subject to any modifications required by the provisions of Schedule I to the 1994 Act; and

(b) in relation to certification marks, subject to any modifications required by the provisions of Schedule II to the 1994 Act.

(5) Sections 92, 95, 97 and 99 of the 1994 Act shall apply in South Georgia and the South Sandwich Islands —

(a) with the substitution in section 92(4)(b) of the words “South Georgia and the South Sandwich Islands” for the words “United Kingdom”;

(b) with the substitution of the following subsection for section 92(6) —

“(6) A person who is convicted of an offence under this section is liable to a fine not exceeding fifty thousand pounds or imprisonment for a term not exceeding ten years.”

(c) with the substitution of the words “South Georgia and the South Sandwich Islands” for the words “England and Wales or Northern Ireland” in section 97(1);

(d) with the substitution of the words “court of summary jurisdiction” for the words “magistrates’ court” in section 97(2)(b);

(e) with the substitution of the following subsection for section 97(5) —

“(5) Any person aggrieved by an order under this section by a court of summary jurisdiction, or by a decision of such a court not to make such an order may appeal against that order or decision to the Supreme Court; and an order made by a court of summary jurisdiction under this section may contain such provision as appears to the court to be appropriate pending the making and determination of any appeal.”

(f) in section 97(8), by omission of the reference to the Trade Descriptions Act 1968.

(6) In this section, and in application by this section to South Georgia and the South Sandwich Islands of any provision of the 1994 Act —

“certification mark” has the meaning given by section 50(1) of the 1994 Act;

“collective mark” has the meaning given by section 49(1) of the 1994 Act; and

“registered trade mark” means a trade mark (within the meaning given by section 1 of the 1994 Act) which is a registered trade mark for the purposes of the 1994 Act.

Made this eighth day of November 2001

D A Lamont
Commissioner