



AUSTRALIAN COMPETITION  
& CONSUMER COMMISSION

**Final Assessment of Certification Trade Mark Application CTM1964305 lodged by Native Angus Preservation Society**

The Australian Competition and Consumer Commission (the ACCC), in accordance with the requirements of the *Trade Marks Act 1995*, has completed its Final Assessment of the above Certification Trade Mark (CTM) application.

The ACCC's Final Assessment is that it is satisfied that:

- (a) the approved certifiers demonstrate the attributes necessary to competently certify the goods and/or services in respect of which the CTMs are to be registered;
- (b) the rules governing the use of the CTMs would not be to the detriment of the public; and
- (c) the rules governing the use of the CTMs are satisfactory having regard to the principles relating to restrictive trade practices set out in Part IV of the *Competition and Consumer Act 2010* (the Act) and the principles relating to unconscionable conduct (Part 2-2), unfair practices (Part 3-1), and safety of consumer goods and product related services (Part 3-3) in Schedule 2 (Australian Consumer Law) of the Act.

Signed.....  (Deputy Chair)

Date..... 20 September 2021

# REGULATIONS



For

## CERTIFICATION MARK

**United Kingdom: UK00003294236**

**Australia: 1964305**

**New Zealand: NZ1105618**

**in Class 31**

Original Lodged: 6/5/2018

Original Accepted: 3/8/2018

Revision v1 Lodged: 12/10/2018

Revision v1 Accepted: 12/12/2018

Revision v2 Lodged: 01/01/2019

Revision v3 Lodged: 24/08/2019

Revision v4 Lodged: 26/07/2021

**Regulations under**  
**United Kingdom: The Trade Marks Act, 1994 (as amended),**  
**Australia: The Trade Marks Act 1995,**  
**New Zealand: The Trade Marks Act 2002**  
**for**  
**Certification Trade Mark Nos.**  
**United Kingdom: UK00003294236**  
**Australia: 1964305**  
**New Zealand: NZ1105618**  
**of**  
**the Native Angus<sup>®</sup> Preservation Society.**

**DEFINITIONS**

For the purpose of these Regulations the words

**"Mark of Certification"** shall mean the Mark allowed to be registered by

- United Kingdom under the provisions of The Trade Mark Act 1994 (as amended) as Certification Trade Mark No. **UK00003294236**,
- Australia under the provisions of The Trade Marks Act 1995 as Certification Trade Mark No. **1964305**
- New Zealand under the provisions of The Trade Mark Act 2002 as Certification Trade Mark No. **NZ1105618**

being the words: "Native Angus<sup>®</sup>".

**"The Society"** shall mean the Native Angus<sup>®</sup> Preservation Society.

**"Person"** shall mean any individual, firm or body corporate or unincorporate.

**“Certificate”** shall mean any certificate, for which the Regulations provide, issued or renewed by the Society.

**“Certificated Users”** shall mean all persons who are authorised by the Society to use the Mark of Certification.

**“Goods”** shall mean any goods falling under the heading: -

<b>Class of the Trade Mark Classification</b>	<b>Goods</b>
31	beef cattle

satisfying the requirements of these Regulations Section 3 paragraph a.

**“Native Angus<sup>®</sup>”** shall mean beef cattle that are either original Angus cattle or the direct descendants of original Angus cattle.

**“Original Angus cattle”** shall mean beef cattle that –

- have been registered as Angus cattle in herdbooks published by the Aberdeen-Angus Cattle Society and given the designation “native bred”,

OR

- are ancestors of cattle that have been registered as Angus cattle in herdbooks published by the Aberdeen-Angus Cattle Society and given the designation “native bred”,

OR

- were born in the UK, and
- have no ancestors in their pedigree that were not born in the UK, and
- have been registered as Angus cattle in herdbooks published by the Aberdeen-Angus Cattle Society.

**“Direct descendants of original Angus cattle”** shall mean beef cattle that –

- have both parents who are original Angus cattle or direct descendants of original Angus cattle, and
- have no ancestors in their pedigree that are not original Angus cattle or direct descendants of original Angus cattle, and
- have been registered as Angus cattle in herdbooks published by a Recognized Angus Society and,

- have been parent verified by the registering society based on DNA testing.

**“Aberdeen-Angus Cattle Society”** shall mean the body with that name established in 1879 in Scotland.

**“Recognised Angus Society”** shall mean Angus breed societies that are members of the World Angus Secretariat and conduct regular publications of a herd book.

**“World Angus Secretariat”** shall mean the body with that name established in 1969 to facilitate the sharing of information between the various Angus Societies/Associations of the world with a Code of Practice which includes, inter alia, protocols for the maintenance of genetic purity and exchange of genetic information.

## **REGULATIONS**

### **MARK OF CERTIFICATION ABSOLUTE PROPERTY OF SOCIETY**

1. The Mark of Certification is the absolute property of the Society and shall not be used by any person except under and by virtue of a certificate issued in accordance with these Regulations.

### **POWER OF ISSUING CERTIFICATES, ETC**

2. The power of issuing, renewing and cancelling a Certificate is vested in the Society. An applicant whose application for use of the Mark of Certification is denied may appeal against such denial under Regulation 9.

## **CONDITIONS TO BE MET BY PERSONS USING THE MARK OF CERTIFICATION**

3. Any person who is a breeder of beef cattle or a trader in beef cattle may be granted permission to use the Mark of Certification.

Each Certificated User must agree to comply with all the conditions governing the use of the Mark of Certification, that is to say: -

- a) That they shall use the Mark of Certification only in relation to live animals which have been certified as by the Society as Native Angus<sup>®</sup>.
- b) That they shall establish and maintain records of births, purchases and sales in accordance with Schedule I hereto, and make to the Society or their appointed agents, the returns required therein.
- c) That they shall pay to the Society the fees referred to in Regulation 4 below.
- d) It is a condition of registration that the mark will always be used in conjunction with a clear indication that it is a certification mark.
- e) That in the event of any change of their address, they shall at once inform the Society thereof.

Use of the certification trademark will be permitted to any person who complies with the these regulations, and trades in the specified goods and services.

## **FEES**

4.
  - a) The Society shall be entitled to charge fees at a level to be determined from time to time by the Society, which shall not exceed the level required to cover the administrative expenses of the Society in relation to the Mark of Certification and to enable the scheme to be administered and operated satisfactorily in the interests of the Certificated Users.
  - b) Application for use of the Mark of Certification may be made by any Person who is the owner of beef cattle which he claims are Native Angus<sup>®</sup>.
  - c) There is no requirement that a Person applying for use of the Mark of Certification be a member of the Society.

- d) The level of fees charged shall vary according to the specific registration society of the animal for which certification is requested. The amounts currently applicable are set out in Schedule II. The fees are to be determined from time to time by the Society and lodged with the Registrar of Trade Marks with these Regulations.
- e) On each occasion that fees are altered, approval of the change shall be obtained from the Registrar of Trade Marks and notified on the Society's website three months before the new fees become effective.

## **RECORDS**

- 5. A record shall be kept at the registered address of the Society, Kingston Farm, Kingston PI, FORFAR, ANGUS, DD8 2RU, SCOTLAND and shall contain the names, addresses and trade descriptions of Certificated Users, the date of issue and particulars of Certificates. The Society shall record therein without delay any new or altered address of which they are notified by a Certificated User. The record shall be open for inspection by the public.

## **EXPIRY AND LOSS OF CERTIFICATE**

- 6.
  - a) A Certificate for a Certificated User shall continue in force until the expiration of one year following the date of issue thereof, unless cancelled by the Society under the provisions of Regulation 7 or Regulation 8.
  - b) A Certificate for an animal shall continue in force in perpetuity, unless cancelled by the Society under the provisions of Regulation 7 or Regulation 8.
  - c) On proof to the satisfaction of the Society of the loss or destruction of any Certificate that is in force, the Society may issue a duplicate thereof.

## **CONDITIONS AS TO CANCELLATION OF CERTIFICATES**

- 7. The Society may cancel a Certificate if
  - a) the Certificated User is no longer the owner of Native Angus<sup>®</sup> cattle, or



- b) the Certified User has committed a breach of these Regulations or has refused to comply herewith.

In the event of the Society cancelling a Certificate under Regulation 7 or Regulation 8 and of the determination of an appeal (if any) under Regulation 9 against the applicant or in the event of a Certificated User dying, all media in or upon which the Mark of Certification appears shall thereupon be surrendered to or held at the disposal of the Society as the Society may direct pending, in the last mentioned case, the issue of a new Certificate on an application by the legal representatives, or successors in business of the deceased Certificated User, and until such new Certificate shall be deemed to have been cancelled. If a body corporate which is a Certificated User goes into liquidation or is dissolved otherwise than for the purpose of re-construction the Certificate shall be deemed to be cancelled.

- c) A Certificated User whose Certificate has been cancelled may appeal against such cancellation under Regulation 9.

## **PENALTY FOR MISUSE OF MARK OF CERTIFICATION**

- 8. If a Certificated User commits any breach of these Regulations or is convicted of any offence tending to the discredit of his reputation and good faith as a breeder or trader, his Certificate will be liable to be cancelled.

## **DISPUTE RESOLUTION**

- 9. In the event of a dispute arising due to the refusal of the Society to grant a Certificate to use the Mark of Certification or to renew a Certificate or due to the decision of the Society to cancel a Certificate whereby in substance the Society would refuse to certify the goods of a party by means of the Mark of Certification, or due to any party aggrieved by any action of the Society which would result in his goods not being certified by means of the said Mark of Certification, a single independent arbitrator shall be appointed by agreement between the Society and the aggrieved party, or failing agreement within fourteen days after either party has given to the other a written request to concur in the appointment of an arbitrator, by an arbitrator to be appointed by the Scottish Arbitration Centre on the written application of either party.

The seat of arbitration shall be Scotland. The language to be used in the arbitral proceedings shall be English. Both parties to the dispute will agree to present the case for settlement to the appointed arbitrator, and to be bound by his decision.

Notwithstanding the above, if the aggrieved party is resident in Australia then at the sole option of the aggrieved party the arbitrator may be appointed by The

Australian Centre for International Commercial Arbitration (ACICA) and the seat of arbitration shall be Australia.

## **POWER TO AMEND OR MAKE NEW REGULATIONS**

10. The Society may from time to time amend these Regulations or create new ones wholly or partly in lieu thereof. An amendment of the Regulations governing the use of a registered certification mark is not effective unless and until the amended Regulations are accepted by the Registrar of Trade Marks. No such amendment or new Regulations shall affect the use of the Mark of Certification unless and until he has received three months' notice in writing of such amendment or new Regulations.

## **NOTICE**

11. Any notice given to a Certificated User by the Society in pursuance of any of these Regulations shall be deemed to have been duly given if forwarded through the post by prepaid letter addressed to him at his address on the Society's record.

# **SCHEDULE I**

## **SYSTEM OF CONTROL**

### **CERTIFICATION**

1. Application for Certification must be made by the owner of the animal to be certified on the form shown in Appendix I.
2. The application must be accompanied by a registration certificate for the animal to be certified showing animal and owner details.
3. Where both the dam and sire have previously been certified as Native Angus<sup>®</sup> by the Society, certification of the animal will be granted automatically.
4. Where either the dam or sire (or both) have not previously been certified as Native Angus<sup>®</sup> by the Society, the application must be accompanied by registration certificates for all ancestors and/or references to publication in official herdbooks as sufficiently necessary so that the Society can establish that all the animal's ancestors are Native Angus<sup>®</sup>.
5. All registration certificates must be from a Recognized Angus Society.
6. All registration certificates must have been issued during the lifetime of the animals to which they apply.
7. The Society will base its determination solely on the official herdbooks published by Recognized Angus Societies and the registration certificates issued by those societies.
8. The Society will maintain a list of all animals previously certified by the Society as Native Angus<sup>®</sup>. This list will be available on the Society's website.
9. Where certification is granted, the Society will issue a certificate (in electronic form) designating the applicant animal as a Native Angus<sup>®</sup> and a certificate (in electronic form) designating the owner as a Certificated User.

## **REPORTING**

10. Certificated Users must submit an annual report showing all Native Angus® which they currently own and details of any deaths or sales of their Native Angus®.

## **SCHEDULE II**

### **THE NATIVE ANGUS® PRESERVATION SOCIETY**

**Certification Trade Mark Nos.**

**United Kingdom: UK00003294236**

**Australia: 1964305**

**New Zealand: NZ1105618**

### **SCHEDULE OF FEES**

The fees in respect of the MARK OF CERTIFICATION scheme are as follows –

- a) The initial licence fee for the issue of a certificate to a Certificated User authorised by the Society to use the Mark of Certification is £20. This is subject to VAT.
  
- b) The annual Certificated User licence renewal fee is £10. This is subject to VAT.
  
- c) The licence fee for the issue of a certificate for each animal is:
  - a. for animals registered with a society which maintains a designation for Native Angus® - £5.
  - b. for animals registered with other societies - £10.

This is a once-only fee and is subject to VAT.

- d) The above fees are included in annual fees for members of the Society.

# APPENDIX I

Form NAPS/100

## THE NATIVE ANGUS® PRESERVATION SOCIETY

Certification Trade Mark Nos.  
United Kingdom: UK00003294236  
Australia: 1964305  
New Zealand: NZ1105618

Application for Certification Form

**Owner:**

Name:

Address:

Native Angus® Preservation Society  
Membership No. (if applicable)

**Animal for Certification**

Angus Society where registered:

Name of Animal:

Identification No.

Date of Birth:

Sex:

**Sire**

Angus Society where registered:

Name of Sire:

Identification No.

**Dam**

Angus Society where registered:

Name of Dam:

Identification No.

**Declaration**

*The information I have given on this form is correct and complete to the best of my knowledge and belief.*

Signed

Date

**Applications for certification must be accompanied by a valid registration certificate.**