



GUIDELINES FOR QUALITY MARKS (GÜTEZEICHEN)

GERMAN INSTITUTE FOR
QUALITY ASSURANCE AND CERTIFICATION

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Description of the Main Terms

Quality Assurance

is the goal and effect of monitored quality requirements for goods and services. It covers the specification of quality regulations, the organisation of activities for monitoring quality (self-monitoring and monitoring by independent bodies) through to penalising infringements, as well as the identification of quality and the establishment and regulated use of Quality Marks (Gütezeichen).

Quality Marks (Gütezeichen)

are verifications of quality assurance. After approval by RAL, they are announced in the Bundesanzeiger (Federal Gazette) and entered into the register maintained by the German Patent and Trademark Office as a collective trademark – whose holders are the Quality Assurance Associations (Gütegemeinschaften). The image for the Quality Marks (Gütezeichen) must contain the words “Gütezeichen” (Quality Mark) – in the construction industry also the word “Güteschutz” (Quality Protection) – and contain the word RAL. The design of the quality mark is subject to the uniform RAL Corporate Design specified by RAL.

Quality Assurance Association (Gütegemeinschaft)

is an organisation recognised by RAL for carrying out the quality assurance process for a particular type of goods or service. It is a legally registered association and holder of the rights for the Quality Marks (Gütezeichen). It issues, according to the statutes of the association, the right to use the Quality Mark (Gütezeichen) to companies who voluntarily submit to the fulfilment of the quality regulations and to monitoring of this quality. The association is itself obligated to monitor the fulfilment of the quality regulations and the controlled use of the Quality Marks (Gütezeichen), to penalise infringements of the provisions defined in the association’s statutes and to take action against misuse of the Quality Marks (Gütezeichen) by unauthorised companies.

Quality principles

are formed by the quality regulations recognised by RAL in the relevant Quality Assurance and Test Specifications. These are used by the Quality Assurance Association (Gütegemeinschaft) as the obligatory basis for the use of the Quality Marks (Gütezeichen).

Monitoring of quality

deals with compliance with the valid quality regulations and the correct use of the Quality Marks (Gütezeichen). It describes both the self-monitoring carried out in the businesses of those companies issued with the Quality Mark (Gütezeichen) (the materials, the production process and the finished product), as well as the continuous monitoring carried out by independent bodies or certified experts who are regulated by the Quality Assurance Associations (Gütegemeinschaften).



List of Quality Marks (Gütezeichen)

serves for registering the recognised Quality Marks (Gütezeichen). It is maintained by RAL and published in the Bundesanzeiger (Federal Gazette).

Statutes

of the Quality Assurance Association (Gütegemeinschaft) consists of dedicated statutes and Quality Marks (Gütezeichen) documentation required for setting up and using the Quality Mark (Gütezeichen). These include

1. The statutes of the Quality Assurance Association (Gütegemeinschaft) holding the rights to the Quality Marks (Gütezeichen) in the form of a legally registered association.
2. The Quality Marks (Gütezeichen) statutes according to article § 102 of the German trademark act with which the Quality Mark (Gütezeichen) was established as a legally held collective trademark.
3. The implementation regulations with special conditions for the issuing and use of the Quality Marks (Gütezeichen), for monitoring and penalising infringements. It also serves to define the handling of the Quality Assurance process in practice.
4. The quality regulations consisting of the Quality Assurance and Test Specifications recognised by RAL, in which the quality level and quality assurance process is defined.

Guidelines for Quality Marks (Gütezeichen)

1. General

The purpose of the Quality Marks (Gütezeichen) is to validate the quality of goods or services, as well as to increase the quality of these goods and services within the framework of advances in technology and increased market expectations. They are also designed to give consumers an independent, reliable source of information for making choices in the market.

- 1.1** The Quality Marks (Gütezeichen) are integrated in the RAL Quality Mark (RAL Gütezeichen) system. They correspond to these "Guidelines for Quality Marks" (Gütezeichen).



1.2 The following definition applies to “Quality Marks” (“Gütezeichen”):

- Quality Marks (Gütezeichen) are words, images, or both that are used as a guarantee validation for labelling goods and services¹, which fulfil certain characteristics based on business standards concerned with the quality of goods and services and measured against important and objective benchmarks. The legal rights for the Quality Marks (Gütezeichen) are held by Quality Assurance Associations (Gütegemeinschaften) who, within the framework of RAL’s activities, establish and publish quality regulations, which are recognised by RAL and publicly available, as well as the monitoring adherence to these regulations, or
- that are based on legislative measures. Insofar as the Quality Assurance Association (Gütegemeinschaft) through RAL provides documentation of proof of compliance with the required certification and independent monitoring for building products as part of a building inspection – in line with the German building laws in each state (certificate of compliance) according to article § 24b of the currently valid version of the model building regulation- – so the compliance mark (Ü-Zeichen), shows that these building products correspond to the technical regulations in the building regulation list A Part 1, the general building permit, the general building inspection test certificate and authorisation in each individual case.

1.3 The responsibility for the organisation of the Quality Mark (Gütezeichen) system is held by RAL. RAL advises those parties in the economy interested in Quality Marks (Gütezeichen) and quality assurance, processes applications, heads the cooperation activities for the development of Quality Mark (Gütezeichen) principles suitable for approval, delivers the approvals for Quality Marks (Gütezeichen) and Quality Assurance Associations (Gütegemeinschaften), maintains a list of approved Quality Marks (Gütezeichen) and ensures that it is publicised in the Bundesanzeiger (Federal Gazette).

1.4 Quality Marks (Gütezeichen) are independent, objective validations of quality assurance, meaning a continuously monitored quality that constantly corresponds to the regulations jointly derived as a result of the RAL approval process, which are freely accessible to everybody, and approved and published by RAL. The Quality Assurance Associations (Gütegemeinschaften) and those issued with the right to carry the Quality Marks (Gütezeichen) are, therefore, committed to ensuring RAL is in a position where it can meet its responsibilities at any time according to the statutes of the association and able to check compliance with these guidelines. The authorisation to carry a Quality Mark (Gütezeichen), which has been set up in the general interest and for the confidence of the general public, is only possible when it is guaranteed that any misuse of the Quality Marks (Gütezeichen) is excluded.

¹ A particular type of activity is here neither meant nor excluded – it deals much more with the generally used term for performance seen in competition law (UWG – Gesetz gegen unlauteren Wettbewerb / Protection against Unfair Competition Act).



2 Conditions for RAL Approval

2.1 Areas of use for Quality Marks (Gütezeichen)

Quality Marks (Gütezeichen) may not be used for individual products but rather created for types of goods and service categories. Only one Quality Mark (Gütezeichen) may be created for a type of goods or service category.

2.2 Holders of the Quality Marks (Gütezeichen)

Every legally registered group (e.g. registered association) with the aim of quality assurance can become the legal holder of a Quality Marks (Gütezeichen) as long as they provide evidence for the overall economic usefulness and offer, as a member of RAL, the guarantee of correct handling of the Quality Marks (Gütezeichen).

2.3 Legal protection

Above and beyond the protection provided by the law against unfair competition, the protection of the Quality Marks (Gütezeichen) is to be ensured by entering it as a trademark (collective trademark) in the register of the German Patent and Trademark office. This is not necessary for Quality Marks (Gütezeichen) issued on a legislative basis.

2.4 Design of Quality Marks (Gütezeichen)

2.4.1 Quality Marks (Gütezeichen) must contain the words "Gütezeichen" (Quality Mark) and the name **RAL** in a highlighted form in the image representing the Quality Marks (Gütezeichen).

The design is to be carried out in cooperation with RAL.

2.4.2 Quality Marks (Gütezeichen) must clearly indicate for which good or services they are valid.

2.5 Quality regulations

2.5.1 The quality criteria to be used in issuing Quality Mark (Gütezeichen) for goods and services, which have been deemed to be essential for the evaluation of quality by the relevant professional and trade groups involved, must be defined in the quality regulations.

Only objectively measurable characteristics can be assessed here.



The characteristics of the requirements and testing specifications to be defined in the quality regulations are to be developed during the RAL approval procedure as part of the cooperation process with business and consumer groups affected and the public authorities responsible in each case.

2.5.2 The quality regulations can be regulations originating from the association or the result of a limited cooperation between the holder of the Quality Mark (Gütezeichen) and business sectors interested in the relevant product or service or a comprehensive cooperation with a recognised non-profit making body (e.g. DIN).

The professional and trade groups affected by the Quality Marks (Gütezeichen) will take part in the establishment of the quality regulations (as a rule, supplier associations for the products or services affected by the quality assurance process and consumer/user associations, as well as testing institutions, relevant public authorities and if required other specialist institutions).

2.5.3 The quality regulations are to be recorded as part of the Quality Marks (Gütezeichen) statutes.

2.5.4 The quality regulations must be freely available for everybody and approved and published by RAL.

2.6 Quality Mark (Gütezeichen) Statutes

2.6.1 Quality Mark (Gütezeichen) Statutes are to be established for every Quality Marks (Gütezeichen) – which are then to be made freely accessible to be examined by anybody.

2.6.2 The Quality Mark (Gütezeichen) Statutes must fulfil the regulation in article § 102 of the German trademark act. They will provide particular information about:

- Name, headquarters, purpose and representative of the association holding the legal rights to the Quality Marks (Gütezeichen),
- The group of companies authorised to use the Quality Marks (Gütezeichen)
- The regulations for the use of the Quality Marks (Gütezeichen)
- The rights and duties of those involved in the case of misuse of the Quality Marks (Gütezeichen).

2.6.3 In addition, the Quality Marks (Gütezeichen) statutes should ensure:

- The right to carry the Quality Marks (Gütezeichen) must be available to any company who fulfils the quality regulations and is prepared to accept the responsibilities associated with the Quality Marks (Gütezeichen).



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- The Quality Marks (Gütezeichen) Statutes and the quality regulations must be maintained in such a way that they do not represent any constraints on competition in accordance with the GWB Gesetz gegen Wettbewerbsbeschränkungen (Act Against Restraints of Competition). They must not hinder technical progress and not prove a hindrance to a later increase in the expected quality level.

2.6.4 The right to carry a Quality Mark (Gütezeichen) will be issued to a company when the following conditions have been met:

- Submission of an application to the holder of the Quality Mark (Gütezeichen).
- Proof that the applicant ensures through its facilities and specialist personnel that a constant level of quality is guaranteed for the goods or services relevant for the Quality Mark (Gütezeichen) in question, in accordance with the Quality Assurance and Test Specifications and the implementation provisions. And also that the initial monitoring test has been completely passed.
- The legally binding acceptance of the Quality Mark (Gütezeichen) Statutes by the applicant.

2.7 Security and monitoring measures in the Quality Assurance Association (Gütegemeinschaft) Statutes

2.7.1 The Quality Assurance Association (Gütegemeinschaft) Statutes should include regulations to ensure that the ongoing monitoring of the relevant products or services for the full and complete compliance with the quality regulations is provided for, and that the continuity of the monitoring can be proven to RAL e.g. through provision of testing documentation. RAL is for its part entitled and obliged to verify this monitoring process. RAL is to be reimbursed for any costs incurred in this process.

2.7.2 For the case that there are infringements against the quality regulations and statutes, then penalties should be included in the statutes in the form of warnings, fines, temporary or permanent withdrawal of the Quality Mark (Gütezeichen) with exclusion from the Quality Assurance Association (Gütegemeinschaft).

2.7.3 To enable the quick resolution of disputes in the case of appeals against decisions taken by the holder of the Quality Marks (Gütezeichen), an arbitration procedure can be agreed in individual cases excluding the due legal process (arbitration procedure according to the regulations of the ZPO (Zivilprozessordnung /Civil Process Order).

2.7.4 The obligations of the holders of the Quality Marks (Gütezeichen) and those individual companies using the Quality Marks (Gütezeichen) are to include the care and protection of the Quality Marks (Gütezeichen) to ensure that it does not become a “poor” mark of quality. Every company using the Quality Marks (Gütezeichen) is obligated to cooperate in notifying the holder of the Quality Marks (Gütezeichen) about any infringements that come to their attention so that they can pursue them further according to the statutes.



2.8 Changes to the Quality Mark (Gütezeichen) Principles

Changes to the RAL approved Quality Mark (Gütezeichen) Principles (statutes of the Quality Assurance Association (Gütegemeinschaft), Quality Marks (Gütezeichen) Statutes, quality regulations and implementation provisions together with all enclosures), even of an editorial nature, require the written approval from RAL to become effective.

3. Approval Process

The required RAL approval process for the creation of a Quality Mark (Gütezeichen) will proceed as follows:

3.1 Preliminary clarification with RAL of the intention to create a Quality Mark (Gütezeichen) including:

- The purpose of the Quality Marks (Gütezeichen), also taking into account overall economic aspects.
- The technically measured and utilised scope of operation
- The form and use of the Quality Mark (Gütezeichen)
- The statutes
(association statutes, Quality Mark (Gütezeichen) statutes, implementation provisions)
- Quality regulations

RAL will then provide the party interested in the Quality Mark (Gütezeichen) with a Quality Mark (Gütezeichen) application form which, amongst other things, is based on the following conditions:

“We apply for the approval of a Quality Mark (Gütezeichen) based on the ‘Guidelines for Quality Marks (Gütezeichen)’ which we accept as binding.

We are aware that the RAL approval process is, except for the general application charge, free of charge but expenses – even when the application is withdrawn – are to be reimbursed and will be invoiced in the same financial year in which they were incurred. For this purpose, we are providing RAL with an advance payment.

At the same time, we wish to apply for general membership of RAL from the time at which the Quality Marks (Gütezeichen) is approved and commit ourselves in the fulfilment of the RAL statutes to paying the relevant fees according to the membership fee regulations.



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- 3.2** The applicant accepts the terms & conditions contained within the Quality Mark (Gütezeichen) application.
- 3.3** The applicant will develop draft statutes jointly with RAL.
- 3.4** The RAL offices will distribute the draft quality regulations to the relevant professional and trade groups (as a rule, supplier associations for the products or services affected by the quality assurance process and consumer/user associations, as well as testing institutions, relevant public authorities and if required other specialist institutions) and the remaining part of the statutes to the relevant departments for their comments.
- 3.5** In consultation with these groups and after checking the legal anti-monopoly and competition aspects, RAL establishes the preconditions for entry into the RAL Quality Marks (Gütezeichen) list, approves the Quality Mark (Gütezeichen) and certifies it for the Quality Assurance Association (Gütegemeinschaft). At the same time, RAL adds the Quality Marks (Gütezeichen) to the list of Quality Marks (Gütezeichen). Finally, the approved Quality Mark (Gütezeichen) is announced by RAL in the Bundesanzeiger (Federal Gazette).

4 Responsibilities of RAL

The responsibilities of RAL in terms of its Quality Mark (Gütezeichen) System and the individual Quality Assurance Associations (Gütegemeinschaften) holding the rights to the Quality Marks (Gütezeichen) consist, in particular, of:

- To employ all measures at its disposal to protect the Quality Marks (Gütezeichen).
- To promote their duties laid out in the statutes.
- To monitor its activities.
- To support to the best of its abilities the Quality Assurance Association (Gütegemeinschaft) in the representation of its interests, in particular, in the protection of the Quality Marks (Gütezeichen) against misuse, as well as in the defence of any measures detrimental to the quality protection.

5 Withdrawal of Approval

- 5.1** RAL should withdraw approval for the Quality Mark (Gütezeichen) and the relevant Quality Assurance Association (Gütegemeinschaft) when:
 - 5.1.1** The Quality Assurance Association (Gütegemeinschaft) ceases its activities or ceases to use the Quality Marks (Gütezeichen) or
 - 5.1.2** The registered trademark at the German Patent and Trademark Office has been removed or
 - 5.1.3** The statute approved by RAL has been amended without prior notification or



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- 5.1.4** A Quality Assurance Association (Gütegemeinschaft) proves itself to be incapable of fulfilling its responsibilities according to section 2.7 of these guidelines or
- 5.1.5** The necessary contributions according to the membership fee regulations have not been paid to RAL.
- 5.2** Once a Quality Mark (Gütezeichen) has been withdrawn, the Quality Assurance Association (Gütegemeinschaft) must guarantee and provide proof to RAL that:
- 5.2.1** The Quality Mark (Gütezeichen) deleted from the RAL list of Quality Mark (Gütezeichen) is also deleted from the register of the German Patent and Trademark Office without delay.
- 5.2.2** The Quality Mark (Gütezeichen) is no longer being used in any form by the Quality Assurance Association (Gütegemeinschaft).
- 5.2.3** Those companies who have up to now been authorised to use the Quality Mark (Gütezeichen) are also no longer using the Quality Marks (Gütezeichen).
- 5.2.4** All items used for displaying Quality Marks (Gütezeichen) in any form (embossed stamps, printing blocks, printing plates, paperboard mats, seals, labels, rubber stamps etc.) as well as any relevant promotional material (letter headed paper, printed publications, prospects etc.) are to be destroyed.
- 5.3** The Quality Assurance Association (Gütegemeinschaft) is obligated in the case of an infringement against 5.2.3 and 5.2.4 and after an unsuccessful formal warning, to enforce companies to cease using the Quality Mark (Gütezeichen) through the due process of law. If it is not in a position to do so then it will refund RAL the costs for substitute measures that RAL is required to carry out itself for the protection of the Quality Marks (Gütezeichen) process.

6 Appeal Procedure

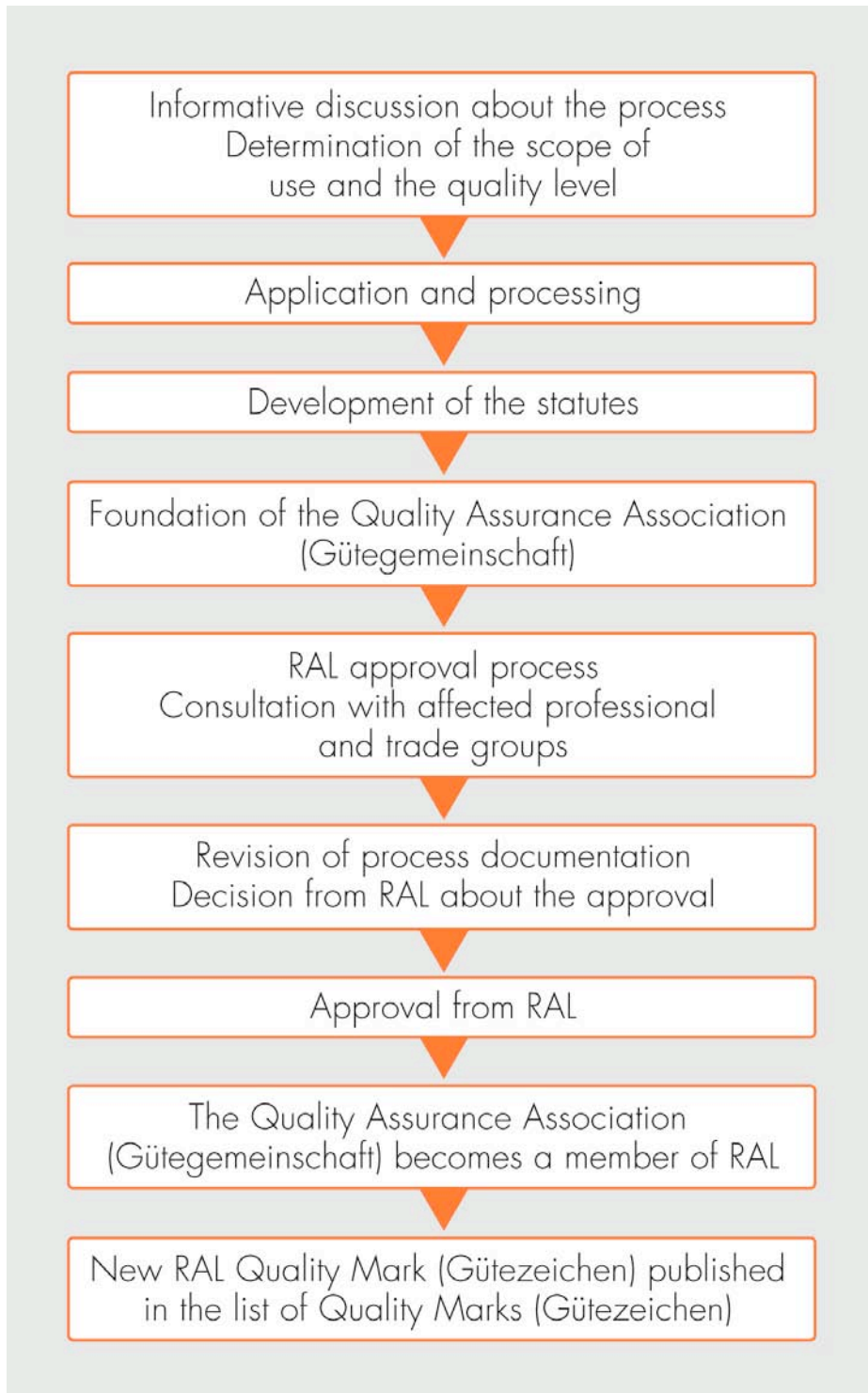
- 6.1** An appeal can be made against decisions from RAL such as
- Refusal to approve a Quality Mark (Gütezeichen)
 - Refusal of an objection against an approval for a Quality Mark (Gütezeichen)
 - Withdrawal of an approved Quality Mark (Gütezeichen)

The appeal must be raised with the President of RAL within 4 weeks after the decision has been issued.

- 6.2** The President will convene in individual cases a review body consisting of two members of the RAL Board of Trustees and two further experts chosen by agreement. The president will then take a decision based on the test report from this review body.



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