

THE EMBLEMS AND NAMES (PREVENTATION OF IMPROPER USE) ACT, 1950

ACT NO. 12 OF 1950 [1st March, 1950.]

An Act to prevent the improper use of certain emblems and names for professional and commercial purposes.

BE it enacted by Parliament as follows:--

1. Short title, extend, application and commencement.

(1) This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1950

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(2) It extends to the whole of India ¹ , and also applies to citizens of India outside India.

(3) It shall come into force on such date ² as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context otherwise requires,--

(a) " emblem" means any emblem, seal, flag, insignia, coat- of- arms or pictorial representation specified in the Schedule;

(b) " competent authority" means any authority competent under any law for the time being in force to register any company, firm or other body of persons or any trade mark or design or to grant a patent:

(c) " name" includes any abbreviation of a name.

3. Prohibition of improper use of certain emblems and names. Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorized in this behalf by the Central Government.

4. Prohibition of registration of certain companies etc.

(1) Notwithstanding anything contained in any law for the time being in force, no competent authority shall,--

(a) register any company, firm or other body or persons which bears any name, or
999999. Extended to Sikkim Brought into force w. e. f. 16. 5. 1975 in Sikkim w. e. f. 1. 9. 1975 vide S. O. 208 (E), vide S. O. 4292 dt. 16. 9. 75 dated 16. 5. 1975. The Act comes into force in Pondicherry on 1. 10. 1963 vide Reg. 7 of 1963, s. 3 and Sch. 1. Extended to Goa, Daman and Diu with modifications by Reg. 12 of 1962. s. 3 and shedule. Extended to and brought into force in Dadra and Nacar Haveli (w. e. f. 1. 7. 65) by Reg. 6 of 1963, s. 2 and sch. 1.

1. The words" except the State of Jammu and Kashmir" omitted by Act 62 1956, s. 2 and Sch (w. e. f. 1- 11- 56). 2. 1st September, 1950, see gazette of India, 1950, Pt. II, Sec, 3, p. 451.

(b) register a trade mark of design which bears any emblem or name, or

(c) grant a patent in respect of an invention which bears a title containing any emblem or name, if the use of such name or emblem is in contravention of section 3.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority may refer the question to the Central Government, and the decision of the Central Government thereon shall be final.

5. Penalty. Any person who contravenes the provisions of section 3 shall be punishable with fine which may extend to five hundred rupees.

6. Previous sanction of prosecution. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorized in this behalf by general or special order of the Central Government.

7. Savings. Nothing in this Act shall exempt any person from any suit or other proceeding which might, apart from this Act, be brought against him.

8. Power of the Central Government to amend the Schedule. The Central Government may, by notification in the Gazette, add to or alter the Schedule, and any such addition or alternation shall have effect as if it had been made by this Act.

9. Power to make rules. ¹

(1)] The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) ¹ Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

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