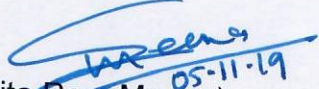


- Department of Consumer Affairs -

This Department of Consumer Affairs proposes to amend Section 5 of the Emblems & Names (Prevention of Improper Use) Act, 1950. A copy of the Emblems and Names (Prevention of Improper Use) Act, 1950 is attached alongwith the proposed amendments.

2. Suggestions/views/comments are invited from the stakeholders on the proposed amendment within 45 days i.e. by 20.12.2019.
3. Suggestions/views/comments may be sent at dircwf-ca@nic.in


(Sita Ram Meena)
Director to the Govt. of India
Tel No. 011-23387737

The Emblems and Names (Prevention of Improper Use) Act, 1950 – Proposed Amendments

Sl. No.	Section of the Act	Provisions in the Section	Proposed Amendments	Suggestions/ Views/ Comments, if any, for amendment
1.	1(1)	This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1950.		
2.	1(2)	It extends to the whole of India, and also applies to citizens of India outside India.		
3.	1(3)	It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.		
4.	2(a)	“Emblem” means any emblem, seal, flag, insignia, coat-of-arms or pictorial representation specified in the Schedule;		
5.	2(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 trademark or design or to grant a patent;		
6.	2(c)	“Name” includes any abbreviation of a name.		
7.	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 authorised in this behalf by the Central Government		
8.	4(1)	<p>Notwithstanding anything contained in any law for the time being in force, no competent authority shall,-</p> <p>Register any company, firm or other body of persons which bears any name, or</p> <p>Register a trade mark or design which bears any emblem or name, or</p> <p>Grant a patent in respect of an invention, which bears a title containing any emblem or name,</p> <p>If the use of such name or emblem is in contravention of Section 3.</p>		
9.	4(2)	<p>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.</p> <p>COMMENTS</p> <p>No company, firm or other body or persons can be registered which bears any name, no trade mark or design can be registered which bears any emblem or name, no patent in respect of any invention can be registered which bears a title containing any emblem or name, if the use of such name or emblem is in contravention of the provisions of section 3.</p>		

10.	5(1)	<p>Penalty. -Any person who contravenes the provisions of Section 3 shall be punishable with fine, which may extend to five hundred rupees.</p>	<p>Penalty - Any person who contravenes the provisions of Section 3 shall be liable on conviction to a fine not exceeding ₹1 Lakh.</p> <p>(Remarks: Penalty is proposed to be increased)</p>	
11.	5(2)	<p>(Currently the Act does not provide for dealing with repeat offence)</p>	<p>(1) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—</p> <p>(i) a fine which may extend up to ₹5 Lakh;</p> <p>(ii) or with imprisonment for a term which may extend to six months</p> <p>(iii) or both</p> <p>(Remarks: In case of repeat offence, proposed penalty is ₹5 Lakh and imprisonment up to 6 months or both)</p>	
12.	5(3)	<p>(Currently the Act is silent on onus of proof of violation of Section 3)</p>	<p>In any prosecution for an offence against the section 3, the onus of proving that any contravention/ alteration was lawfully authorised shall be on the defendant.</p> <p>(Remarks: Proposed provision is relating to onus of proof of violation of Section 3)</p>	

13.	6	Previous sanction for 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 authorised in this behalf by general or special order of the Central Government.		
14.	7	Savings. -Nothing in this Act shall exempt any person from any suit or other proceedings, which might, apart from this Act, be brought against him.		
15.	8	Power of the Central Government to amend the Schedule. -The Central Government may, by notification in the Official Gazette, add to or alter the Schedule, and any such addition or alteration shall have effect as if it had been made by this Act.		
16.	9	Power to make rules. -The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.		
