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## THE PRESIDENCY

No. 114 17 January 2003

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**No. 61 of 2002: Merchandise Marks Amendment Act, 2002.**



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**GENERAL EXPLANATORY NOTE:**

- [                    ] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 30 December 2002.)*

**ACT**

**To amend the Merchandise Marks Act, 1941, so as to define “event” and “protected event”; to prohibit the abuse of a trade mark in relation to an event; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 1 of Act 17 of 1941, as amended by section 1 of Act 39 of 1952, section 1 of Act 47 of 1954, section 1 of Act 54 of 1987, section 1 of Act 49 of 1996, section 1 of Act 38 of 1997 and section 1 of Act 50 of 2001** 5

1. Section 1 of the Merchandise Marks Act, 1941, is hereby amended—

(a) by the insertion after the definition of “document” of the following definition:

“ ‘event’ means any exhibition, show or competition of a sporting, recreational or entertainment nature which is—

(a) held or to be held in public; 10

(b) likely to attract the attention of the public or to be newsworthy; and

(c) financed or subsidised by commercial sponsorship,

and includes any broadcast of such exhibition, show or competition;”;

and

(b) by the insertion after the definition of “premises” of the following definition: 15

“ ‘protected event’ means an event designated as such under section 15A;”.

**Insertion of section 15A in Act 17 of 1941**

2. The following section is hereby inserted in the Merchandise Marks Act, 1941, after section 15: 20

**“Abuse of trade mark in relation to event**

**15A. (1) (a)** The Minister may, after investigation and proper consultation and subject to such conditions as may be appropriate in the circumstances, by notice in the *Gazette* designate an event as a protected event and in that notice stipulate the date—

(i) with effect from which the protection commences; and 25

(ii) on which the protection ends, which date may not be later than one month after the completion or termination of the event.

(b) The Minister may not designate an event as a protected event unless the staging of the event is in the public interest and the Minister is satisfied that the organisers have created sufficient opportunities for small businesses and in particular those of the previously disadvantaged communities.

(2) For the period during which an event is protected, no person may use a trade mark in relation to such event in a manner which is calculated to achieve publicity for that trade mark and thereby to derive special promotional benefit from the event, without the prior authority of the organiser of such event.

(3) For the purposes of subsection (2), the use of a trade mark includes—

(a) any visual representation of the trade mark upon or in relation to goods or in relation to the rendering of services;

(b) any audible reproduction of the trade mark in relation to goods or the rendering of services; or

(c) the use of the trade mark in promotional activities, which in any way, directly or indirectly, is intended to be brought into association with or to allude to an event.

(4) Any person who contravenes subsection (2) shall be guilty of an offence.

(5) For the purposes of this section 'trade mark' includes a mark."

#### Short title

3. This Act is called the Merchandise Marks Amendment Act, 2002.