

Emblems Act, 1950

Prevention of improper use Act, 1950

Introduction

To prevent the use, without proper authority and in particular for commercial purposes, of the emblem, the official seal and the name of United Nations and of abbreviations of that name, the General Assembly of the United Nations Organization recommended that the members of the United Nations should take necessary legislative measures. The World Health Organization had also recommended that legislative measures may be taken to prevent the improper use of its name and abbreviation, emblem and official seal. In India and abroad many instances had come to light of the use of Indian National Flag and emblem and of the names or pictorial representation of Mahatma Gandhi and other national leaders for commercial and trade purposes and in a manner which offended the sentiments of the people. The law contained in the various legislative enactments was found to be inadequate to prevent these abuses. Accordingly, to prevent the improper use of certain emblems and names for professional and commercial purposes, the Emblems and Names (Prevention of Improper Use) Bill was introduced in the Parliament.

Statement of objects and reasons

The General Assembly of the United Nations Organization recommended in 1946 that members of the United Nations should take necessary legislative or other appropriate measures to prevent the use, without proper authority, and in particular for commercial purposes, of the emblem, the official seal and the name of the United Nations and of the abbreviations of that name. A similar recommendation has since been received also from the World Health Organization for prevention of the use of its name (and abbreviations), emblem and official seal. Instances have also come to light of the use in India (and abroad) of the Indian National Flag and emblem and of the names or pictorial representation of Mahatma Gandhi and other national leaders, for commercial and trade purposes and in a manner likely to offend the sentiments of the people. The provisions of the Indian Trade Marks Act, 1940, Indian Patents and Designs Act, 1911, Indian Merchandise Marks Act, 1889, and the Indian Companies Act, 1913, are not adequate to prevent these abuses. The Bill seeks to prevent the improper use of these names, emblems, etc., for the purpose of trade, business, calling, profession, patent or design and to impose a penalty for misuse of emblems, etc., specified in the Schedule and empowers the Central Government to make additions, and amendments in the Schedule as and when necessary.

Act 12 of 1950

The Emblems and Names (Prevention of Improper Use) Bill having been passed by both the Houses of Parliament received the assent of the President on 1st March, 1950. It came into force on 1st September, 1950 as THE EMBLEMS AND NAMES (PREVENTION OF IMPROPER USE) ACT, 1950 (12 OF 1950).

List of amending acts and adaptation order

The Jammu and Kashmir (Extension of Laws) Act, 1956 (62 of 1956).
The Adaptation of Laws (No.3) Order, 1956.
The Delegated Legislation Provisions (Amendment) Act, 1985 (4 of 1986).

The Emblems and Names

(Prevention of Improper Use) ACT, 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, extent, application and commencement –

- a. This Act may be called the Emblems and Names (Prevention of Improper Use) Act, 1950.
- b. It extends to the whole of India ²[***] and also applies to citizens of India outside India.
- c. It shall come into force on such date³ as the Central Government may be 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 and 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 colorable 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.

1	.This Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, sec. 3 and Sch. To Pondicherry by Reg. 7 of 1963, sec. 3 and first Sch.
2.	The words "except the State of Jammu and Kashmir" omitted by Act 62 of 1956, sec.2 and Sch. (w.e.f 1-11-1956).
3.	Came into force on 1.9.1950, see Gazette of India, 1950, Pt. II, Sec. 3 p. 451. The Act has been enforced in Sikkim on 1.9.1975, vide S.O. 4292 of 1975 and to Dadra and Nagar Haveli by Reg. 6 of 1963.

4 **Prohibition of registration of certain companies, etc.–**

- i. Notwithstanding anything contained in any law for the time being in force, no competent authority shall –

register any company, firm or other body of persons which bears any name,
register a trade mark or design which bears any emblem or name, or
grant a patent in respect of an invention which bears a title containing any emblem or name.

- ii. If the use of such name or emblem is in contravention of section 3.
- iii. 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 for prosecution–**

No prosecution for any offense 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 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.

9 **Power to make rules –**

- i. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.
- ii. 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 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.

Section 9 re-numbered as sub-section (1) thereof by Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).

Ins. By Act 4 of 1986, sec. 2 and Sch. (w.e.f. 15-5-1986).

iii.

The Schedule

[See sections 2 (a) and 3]

1.	The name, emblem or official seal of the United Nations Organization.
2.	The name, emblem or official seal of the World Health Organization.
3.	The Indian National Flag.
4.	The name, emblem or official seal of the Government of India or of any State, or any other insignia or coat-of-arms used by any such Government or by a Department of any such Government.]
5.	The emblems of the St. John Ambulance Association (India), and the St. John Ambulance Brigade (India), consisting of the device of a white eight pointed cross embellished in the four principal angles ³ [***], whether or not the device is surrounded or accompanied by concentric circles or other decoration or by lettering.]
6.	The name, emblem or official seal of the President, Governor, 5[***] 6[Sadar-i-Riyasat] or Republic or Union of India].
7.	Any name which may suggest or be calculated to suggest- (i)the patronage of the Government of India or the Government of a State; or (ii)connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force.]
8.	The name, emblem or official seal of the United Nations Educational, Scientific and Cultural Organization.]
9.	The name, or pictorial representation of Rashtrapati, 8[***] Rashtraapati Bhavan, Raj Bhavan.]

9A.	The name or pictorial representation of 10[Chaatrapati Shivaji Maharaj or] Mahatma Gandhi 11[or Pandit Jawahar Lal Nehru], 12[Shrimati Indira Gandhi] or the Prime Minister of India 1[except the pictorial use thereof on calendars where only the name of the manufacturers and printers of the calendars are given and the calendars are not used for advertising goods].]
1.	Sub. by S.R.O. 1230, dated 4th June, 1955, published in the Gazette of India, 1955, Pt. II, Sec. 3, p. 1036.
2.	Added by S.R.O. 561, dated 20th March, 1952, published in the Gazette of India 1952, Pt. II sec. 3, p.546.
3.	The words "alternatively with a lion passant quadrant and a unicomme passant" omitted by S.O. 2135, dated 12th August, 1972, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 3070.
4.	Added by S.R.O. 1230, dated 4th June, 1955, published in the Gazette of India, 1955, Pt. II, Sec. 3, p.1036.
5.	The word "Rajpramukh" omitted by the Adaptation of Laws (No. 3) Order, 1956.
6.	Added by S.R.O. 2011, dated 7th September, 1955, published in the Gazette of India, 1955, Pt. II, Sec. 3, p.1807.
7.	Ins. by S.R.O. 2011, dated 7th September, 1955, published in the Gazette of India, 1955, Pt. II, Sec. 3, P. 1807.
8.	The words "Rashtra Bhavan" omitted by S.O. 1916, dated 30th July, 1960, published in the Gazette of India, 1960, Pt. II, Sec. 3 (ii), p. 2185.
9.	Added by S.O. 416, dated 14th February, 1959, published in the Gazette of India, 1959, Pt. II, Sec. 3 (ii), p. 444.
10.	Ins. by S.O. 1120, dated 16th March, 1968, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 1609.
11.	.Ins. by S.O. 4116, dated 30th November, 1964, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 4586.
12.	Ins. by S.O. 239 (E), dated 27th March, 1985, published in the Gazette of India, Extra, Pt. II, Sec. 3(ii), p.2.

- 2[10 The medals, badges or decorations instituted by the Government from time to time or the miniatures or replicas of such medals, badges or decorations ³[or the names of such medals, badges or decorations or of the miniatures or replicas thereof].]
- 4[11 The name, emblem or official seal of the International Civil Aviation Organization.]
- 5[12 The word "Interpol" which is an integral part of the International Criminal Police Organisation.]
- 6[13 The name, emblem or official seal of the World Meteorological Organisation.]
- 7[14 The name and emblem of the Tuberculosis Association of India.]
- 8[15 The name, emblem and official seal of the International Atomic Energy Agency.]
- 9[16 The names "Ashoka Chakra" or "Dharma Chakra" or the pictorial representation of Ashoka Chakra as used in the Indian National Flag or in the official seal or emblem of the Government of India or of any State Government or of a Department of any such Government.]
- 10[17 The name of the Parliament or the legislature of any State, or the Supreme Court, or the High Court of any State, or, the Central Secretariat, or the secretariat of any State Government or any

other Government office or the pictorial representation of any building occupied by any of the aforesaid institutions.]

- 11[18 The name and emblem of the Rama Krishna Math and Mission consisting of a swan floating on water, with a lotus in the foreground and the rising sun in the background, the whole being encircled by a wild serpent (facing right) with the words superimposed on the bottom portion.]

1	Added by S.O.2668, dated 10th September, 1963, published in the Gazette of India, 1963, Pt. II, Sec. 3(ii), p. 3404.
2	Ins. by S.R.O. 525, dated 23rd February, 1956, published in the Gazette of India, 1956, Pt. II, Sec. 3, p. 280.
3	Added by S.R.O. 1862, dated 17th August, 1956, published in the Gazette of India, 1956, Pt. II, Sec. 3, p. 1410.
4	Added by S.R.O.2906, dated 4th September, 1957, published in the Gazette of India, 1957, Pt. II, Sec. 3, p. 1958.
5	Added by S.O. 1429, dated 19th June, 1959, published in the Gazette of India, 1959, Pt. II, Sec. 3 (ii), p. 1453.
6	Added by S.O. 1544, dated 6th July, 1959, published in the Gazette of India, 1959, Pt. II, Sec. 3 (ii), p. 1726.
7	Added by S.O. 1605, dated 13th July, 1959, published in the Gazette of India, 1959, Pt. II, Sec. 3 (ii), p. 1812.
8	Added by S.O. 2438, dated 7th October, 1961, published in the Gazette of India, 1961, Pt. II, Sec. 3(ii), p. 2645.
9	Added by S.O. 671, dated 18th February, 1964, published in the Gazette of India, 1964, Pt. II, Sec. 3 (ii), p. 908.
10	Added by S.O. 3760, dated 24th October, 1964, published in the Gazette of India, 1964, Pt. II, Sec. 3 (ii), p. 4203.
11	Added by S.O. 2356, dated 4th August, 1973, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 2810, dated 18th August, 1973.

- 19 The name and emblems of Sri Sarada Math and Ram Krishna Sarada Mission consisting of a swan (facing right) floating on waters, with a lotus in the foreground and the rising sun in the background, the whole being encircled by a wild serpent (facing right) with the words super imposed on the bottom portion.
- 20 The name of “The Bharat Scouts and Guides” with its emblem.
- 21 The name and emblem of the International Olympic Committee consisting of five inter-laced rings.
- 22 The name and the emblem of the National Youth Emblem which is in black and white and carries profiles of the faces of two onward looking young persons – male and female – inscribed within a circle. Both faces are turning towards the right and the profile of the male face is in black and is situated behind that of the female face. The back of profile of the female face forms the tail and wing of a dove flying in the opposite direction with its beak extending outside the circle and carrying a twig with leaf. The profile of the dove is in white and the balance space of the profile of the female face is covered with horizontal lines in black. The space between the black profile of the male face and the circle is also covered by horizontal lines in black. The space in between the profile of the dove and the circle to the left of the dove is also in black. The leaf and twig is in black. One eye of the dove is shown in the form of a dot.

1.	Added by S.O. 2697, dated 11th September, 1973, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 3126, dated 29th September, 1973.
2.	Added by S.O. 1841, dated 10th July, 1974, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 1928, dated 27th July, 1974.
3.	Added by S.O. 2457, dated 18th August, 1978, published in the Gazette of India, Pt. II, Sec. 3 (ii), p. 2331, dated 26th August, 1978.
4.	Ins. by S.O. 373 (E), dated 23rd June, 1986, published in the Gazette of India, Extra., Pt. II, Sec. 3 (ii), p. 2, dated 23rd June, 1986.