

TRADE MARKS (AMENDMENT) BILL, 2023

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TRADE MARKS (AMENDMENT) BILL, 2023

A BILL FOR AN ACT TO AMEND THE TRADE MARKS ACT

Enacted by the Parliament of The Bahamas

1. Short title and commencement.

- (1) This Act, which amends the Trade Marks Act, 2015 (*No. 39 of 2015*) may be cited as the Trade Marks (Amendment) Act, 2015.
- (2) This Act shall come into operation on such day as the Minister has, by notice published in the Gazette, appointed for the coming into operation of the principal Act.

2. Amendment of section 2 of the principal Act.

Section 2 of the principal Act is amended —

- (a) by the insertion in the appropriate alphabetical order of the following definition —
“**official mark**” means a mark adopted and used by a public authority of The Bahamas for use with goods or services;”;
and
- (b) by the deletion and substitution of the following definition —
“**Registrar**” means the Registrar of the Intellectual Property Office any reference to the Registrar shall be construed as including a reference to any officer discharging the functions of the Registrar;”.

3. Amendment of section 8 of the principal Act.

Subsection (1) of section 8 of the principal Act is amended by the insertion immediately following paragraph (f) of the following new paragraph —

“(g) any mark that consists of, or contain any element thereof, adopted and used by a public authority in The Bahamas as an official mark for goods or services.”.

4. Amendment of section 44 of the principal Act.

Subsection (2) of section 44 of the principal Act is deleted and substituted as follows —

“(2) Any such infringement of a trade mark shall be actionable before the Court —

- (a) at the suit of the owner or an authorized user of the trade mark; or
- (b) by a licensee,

in accordance with the provisions of this Act.”.

5. Insertion of new section 46A into the principal Act.

The principal Act is amended by the insertion immediately after section 46 of the following new section —

“46A. Power of Court to order certain information.

- (1) Where the owner of trade mark has commenced legal proceedings against a defendant for infringement of a trade mark and has alleged that the defendant has engaged in acts of infringement on a commercial scale, the Court may, on the application of the owner of the trade mark order the defendant, a financial services provider or any other person within the jurisdiction of the Court, to disclose to the owner of the trade mark or the Court, the banking or other commercial information of that defendant.
- (2) Where in any legal proceedings commenced by the owner of trade mark the Court has adjudged that one or more defendants have, in relation to specific goods, engaged in acts of infringement of that trademark, the Court may order any of or all of the defendants to those proceedings to provide to the owner of the trade mark or the Court, information, on the origin and distribution networks of the goods in issue.”.

OBJECTS AND REASONS

This Bill seeks to amend the Trade Marks Act, 2015.

Clause 2 of the Bill seeks to provide for the inclusion of the definition of “official mark” into the principal Act and for the substitution of the definition of Registrar.

Clause 3 of the Bill seeks to amend section 8 of the principal Act to provide for marks that consists of or contain any element thereof, adopted and used by a public authority in The Bahamas as an official mark for goods and service.

Clause 4 of the Bill seeks to amend section 44 of the Act to provide that any infringement of a trade mark shall be actionable before the Court at the suit of the owner or an authorized user of the trade mark or by a licensee.

Clause 5 of the Bill seeks to provide for a new section 46A into the principal Act to empower the Court to order certain information.