THE STATE EMBLEM OF INDIA (PROHIBITION OF IMPROPER USE) ACT, 2005

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THE STATE EMBLEM OF INDIA (PROHIBITION OF IMPROPER USE) ACT, 2005

ACT NO. 50 OF 2005

[20*th December*, 2005.]

An Act to prohibit the improper use of State Emblem of India for professional and commercial purposes and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. Short title, extent, application and commencement.—(*1*) This Act may be called the State Emblem of India (Prohibition of Improper Use) Act, 2005.

(*2*) It extends to the whole of India, and also applies to citizens of India out side India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint.

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

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

(*b*) "emblem" means the State Emblem of India as described and specified in the Schedule to be used as an official seal of the Government.

3. Prohibition of improper use of emblem.—Notwithstanding anything contained in any other law for the time being in force, no person shall use the emblem or any colourable imitation thereof in any manner which tends to create an impression that it relates to the Government or that it is an official document of the Central Government, or as the case may be, the State Government, without the previous permission of the Central Government or of such officer of that Government as may be authorised by it in this behalf.

Explanation.—For the purposes of this section, "person" includes a former functionary of the Central Government or the State Governments.

4. Prohibition of use of emblem for wrongful gain.—No person shall use the emblem for the purpose of any trade, business, calling or profession or in the title of any patent, or in any trade mark or design, except in such cases and under such conditions as may be prescribed.

5. Prohibition of registration of certain companies, etc.—(*1*) Notwithstanding anything contained in any other law for the time being in force, no competent authority shall,—

(*a*) register a trade mark or design which bears the emblem, or

(*b*) grant patent in respect of an invention which bears a title containing the emblem.

(*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 shall refer the question to the Central Government and the decision of the Central Government thereon shall be final.

6. General powers of Central Government to regulate use of emblem.—(*1*) The Central Government may make such provision by rules as appears to it to be necessary, to regulate the use of the emblem in official seal that is used in offices of the Central Government and the State Governments and their organisations including diplomatic missions abroad, subject to such restrictions and conditions as may be prescribed.

1. 12th September, 2007, *vide* Notification No. S.O. 1526(E) dated 12th September, 2007, *see* Gazette of India, Extraordinary, Part II sec.3(*ii*).

(*2*) Subject to the provisions of this Act, the Central Government shall have powers—

(*a*) to notify the use of emblem on stationery, the method of printing or embossing it on demi-official stationery by the constitutional authorities, Ministers, Members of Parliament, Members of Legislative Assemblies, officers of the Central Government and the State Governments;

(*b*) to specify the design of the official seal consisting of the emblem;

(*c*) to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Governments;

(*d*) to provide for guidelines for display of emblem on public buildings in India, the diplomatic missions and on the buildings occupied by India's consulates abroad;

(*e*) to specify conditions for the use of emblem for various other purposes including the use for educational purposes and the armed forces personnel;

(*f*) to do all such things (including the specification of design of the emblem and its use in the manner whatsoever) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

7. Penalty.—(*1*) Any person who contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, or if having been previously convicted of an offence under this section, is again convicted of any such offence, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

(*2*) Any person who contravenes the provisions of section 4 for any wrongful gain shall be punishable for such offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

8. 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.

9. Savings.—Nothing in this Act shall exempt any person from any suit or other proceedings which might be brought against him under any other law for the time being in force.

10. Act to have overriding effect.—The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument having effect by virtue of such enactment.

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

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(*a*) cases and conditions regulating the use of emblem under section 4;

(*b*) making rules to regulate the use of the emblem in official seal of the Government and specifying restrictions and conditions relating thereto under sub-section (*1*) of section 6;

(*c*) the use of emblem on stationery, design of official seal consisting of emblem and other matters under sub-section (*2*) of section 6;

(*d*) authorising officer by general or special order for giving previous sanction for instituting prosecution under section 8; and

(*e*) any other matter which is required to be, or may be, prescribed.

(*3*) Every rule made under this section 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 House 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.

THE SCHEDULE

[*See* section 2(*b*)]

STATE EMBLEM OF INDIA

DESCRIPTION AND DESIGN

The State Emblem of India is an adaptation from the Sarnath Lion Capital of Asoka which is preserved in the Sarnath Museum. The Lion Capital has four lions mounted back to back on a circularabacus. The frieze of the abacus is adorned with sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening Dharma Chakras. The abacus rests on a bell-shaped lotus.

The profile of the Lion Capital showing three lions mounted on the abacus with a Dharma Chakrain the centre, a bull on the right and a galloping horse on the left, and outlines of Dharma Chakras on the extreme right and left has been adopted as the State Emblem of India. The bell-shaped lotus has been omitted.

The motto “Satyameva Jayate”—Truth alone triumphs — written in Devanagari script below the profile of the Lion Capital is part of the State Emblem of India.

The State Emblem of India shall conform to the designs as set out in Appendix I or Appendix II.

APPENDIX I

Note.—This design is in simplified form and meant for reproduction in small sizes, such as for use in stationery, seals and die-printing.

APPENDIX II

Note.—This design is more detailed and meant for reproduction in bigger sizes.