
**Council for Trade-Related Aspects of
Intellectual Property Rights**

Original: English/
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inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY
LAWS AND REGULATIONS NOTIFIED UNDER
ARTICLE 63.2 OF THE AGREEMENT**

SOUTH AFRICA

Addendum

The present document reproduces the text¹ of the Intellectual Property Laws Amendment Act of 1997, notified by South Africa under Article 63.2 of the Agreement in a communication dated 30 April 1999.

**Conseil des aspects des droits de propriété
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA
PROPRIÉTÉ INTELLECTUELLE NOTIFIÉES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

AFRIQUE DU SUD

Addendum

Le présent document contient le texte¹ de la Loi de 1997 portant modification des lois en matière de propriété intellectuelle, notifiée par l'Afrique du Sud au titre de l'article 63:2 de l'Accord dans une communication datée du 30 avril 1999.

**Consejo de los Aspectos de los Derechos de Propiedad
Intellectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA
PROPIEDAD INTELLECTUAL NOTIFICADOS EN VIRTUD
DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

SUDÁFRICA

Addendum

En el presente documento se reproduce el texto¹ de la Ley de Modificación de las Leyes de Propiedad Intelectual de 1997, que Sudáfrica ha notificado en virtud del párrafo 2 del artículo 63 del Acuerdo en una comunicación de fecha 30 de abril de 1999.

¹ In English only./En anglais seulement./En inglés solamente.

REPUBLIC OF SOUTH AFRICA

**INTELLECTUAL PROPERTY
LAWS AMENDMENT ACT**

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWET OP
INTELLEKTUELE
GOEDEREWETTE**

No , 1997

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.

ACT

To amend the Merchandise Marks Act, 1941, so as to substitute, to delete or to amend certain definitions; to define certain expressions; to repeal the provisions relating to the unlawful trading in counterfeit goods in so far as these provisions are to be superseded by other envisaged legislation regarding the counterfeiting of goods; to adjust the powers of inspectors to enter and search premises and attach goods; to substitute or delete certain obsolete provisions and references; to delete a provision imposing a burden of proof on an accused; to provide for a presumption with respect to the offence of offering for sale or hire goods to which any false trade description is applied; and to adjust the provisions regarding penalties for offences; to amend the Performers' Protection Act, 1967, so as to delete or to amend certain definitions; to define certain expressions; to protect performances in countries which are members of the World Trade Organization; to lengthen the term of protection for performances to fifty years; to provide for all broadcasters; to adjust the provisions regarding penalties for offences; and to extend the application of the Act to performances which took place before its commencement to correspond with the Agreement on Trade Related Aspects of Intellectual Property Rights (the TRIPS Agreement); to amend the Patents Act, 1978, so as to define certain expressions; to amend or to substitute certain definitions; to clarify the provisions with respect to the payment of renewal fees, the priority dates of matter as opposed to patent claims, the principle of privilege regarding communications by or to patent agents and the assessment of damages; to bring the Act in line with the Trade Marks Act, 1993, the Designs Act, 1993, and the TRIPS Agreement; to provide for the implementation of the Patent Cooperation Treaty in the event of South Africa's accession thereto; to effect a correction in the Afrikaans text; to repeal or amend certain obsolete provisions and references; and to amend the long title; to amend the Copyright Act, 1978, so as to substitute, to amend or to delete certain definitions; to elaborate the requirement that a work must exist in a material form to qualify for copyright; to adjust the term of copyright in a cinematograph film and to extend the scope of copyright in computer programs in view of the TRIPS Agreement; to provide for all broadcasters; to amend the provisions relating to damages and other compensation for the infringement of copyright in order that it corresponds with the Trade Marks Act, 1993, and the Designs Act, 1993; and to substitute a certain word in the Afrikaans text; to amend the Trade Marks Act, 1993, so as to amend the provisions regarding marks that may not be registered as trade marks and those regarding the protection of well-known trade marks to ensure compliance with the TRIPS Agreement and Article 6ter of the Paris Convention; to effect a correction in the English text; to further regulate the relief for the infringement of registered trade marks; to provide that the registrar must keep a list of emblems of convention countries and international organisations; and to replace an incorrect reference; to amend the Designs Act, 1993, so as to define an expression; to delete a definition; to adjust the

requirements for the registration of a design; to amend the provisions regarding the notification of registration and the certificate of registration; to adjust the provisions regarding compulsory licences in respect of certain registered designs and to further regulate the effect of the registration of a design and the amendment of an application for registration, and of a registration of a design, to ensure compliance with the TRIPS Agreement; and to correct or to clarify certain provisions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

CONTENTS OF ACT

— Sections 1—18: Amendment of Merchandise Marks Act, 1941	
— Sections 19—25: Amendment of Performers' Protection Act, 1967	5
— Sections 26—49: Amendment of Patents Act, 1978	
— Sections 50—58: Amendment of Copyright Act, 1978	
— Sections 59—68: Amendment of Trade Marks Act, 1993	
— Sections 69—79: Amendment of Designs Act, 1993	
Section 80: Short title and commencement	10

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 and section 1 of Act 54 of 1987

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

- (a) by the substitution for the definition of "apply to" for the following definition: 15
" 'apply to' means emboss, impress, engrave, etch or print upon or weave into or otherwise—
(a) work into or onto;
(b) annex or affix to; or
(c) incorporate in;";
- (b) by the deletion of the definition of "bottle"; 20
- (c) by the insertion after the definition of "covering" of the following definitions: 25
" 'device' means any visual representation or illustration capable of being reproduced upon a surface, whether by printing or otherwise;
'document' means recorded information regardless of form or medium;";
- (d) by the substitution for the definition of "false trade description" of the following definition: 30
" 'false trade description' means any trade description [whether or not it consists of or includes a trade mark or part of a trade mark] which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, if that alteration makes the description false in a material respect;";
- (e) by the deletion of the definition of "Gazette";
- (f) by the substitution for the definition of "inspector" of the following 35
definition: