

PART V

CHAPTER XIX

MARKS AND TRADE NAMES

101. For the purposes of this Part, unless the context otherwise requires— Definitions.

“certification mark” means a mark indicating that the goods or services in connection with which it is used are certified by the proprietor of the mark in respect of origin, material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics ;

“collective mark” means any visible sign designated as such and serving to distinguish the origin or any other common characteristic of goods or services of different enterprises which use the mark under the control of the registered owner ;

“enterprise” means any business, industry or other activity carried on by an individual, partnership, company, or co-operative society wherever registered or incorporated and whether registered or not under any law for the time being in force relating to companies, co-operative societies or businesses engaged in or proposing to engage in any business and includes any business undertaking of the Government or any State Corporation whether carrying on business in Sri Lanka or otherwise ;

“false trade description” means a trade description which is false or misleading in a material respect as regards the goods or services to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description false or misleading in a material respect,

and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Part ;

“geographical indication” means an indication which identifies any goods as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin ;

“goods” means anything which is the subject of trade, manufacture or merchandise and includes services ;

“indication of source” means any expression or sign used to indicate that a product or service originates in a given country or group of countries, region, or locality ;

“mark” means a trade mark or service mark ;

“name” includes any abbreviation of a name ;

“person” means manufacturer, dealer, trader or owner and includes any body of persons, corporate or unincorporate ;

“service mark” means any visible sign serving to distinguish the services of one enterprise from those of an other enterprise ;

“trade description” means any description, statement or other indication, direct or indirect—

(a) as to the number, quantity, measure, gauge, or weight of any goods ; or

(b) as to the place or country in which any goods were made or produced ; or

- (c) as to the mode of manufacturing or producing any goods ; or
- (d) as to the material of which any goods are composed ; or
- (e) as to any goods being the subject of an existing copyright, related rights, industrial design or patent or any other matter protected under this Act ; or
- (f) as to the quality, kind or nature of the services ; or
- (g) as to the standard of quality of any goods, according to a classification commonly used or recognized in the trade ; or
- (h) as to the fitness for purpose, strength, performance or behaviour of any goods,

and the use of any figure, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Part ;

“trade mark” means any visible sign serving to distinguish the goods of one enterprise from those of another enterprise ; and

“trade name” means the name or designation identifying the enterprise of a natural or legal person.