



Trade Marks Act 1994

1994 CHAPTER 26

PART I

REGISTERED TRADE MARKS

Effects of registered trade mark

11 Limits on effect of registered trade mark.

- (1) A registered trade mark is not infringed by the use of [^{F1}a later registered trade mark where that later registered trade mark would not be declared invalid pursuant to section 47(2A) or (2G) or section 48(1)].

^{F2}[^{F3}(1A)]

- (1B) Where subsection (1) ^{F4}... applies, the later registered trade mark is not infringed by the use of the earlier trade mark even though the earlier trade mark may no longer be invoked against the later registered trade mark.]

- (2) A registered trade mark is not infringed by—

- (a) the use by [^{F5}an individual] of his own name or address,
- (b) the use of [^{F6}signs or indications which are not distinctive or which concern] the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of goods or of rendering of services, or other characteristics of goods or services, or
- (c) the use of the trade mark [^{F7}for the purpose of identifying or referring to goods or services as those of the proprietor of that trade mark, in particular where that use] is necessary to indicate the intended purpose of a product or service (in particular, as accessories or spare parts),

provided the use is in accordance with honest practices in industrial or commercial matters.

- (3) A registered trade mark is not infringed by the use in the course of trade in a particular locality of an earlier right which applies only in that locality.

Status: Point in time view as at 31/12/2020. This version of this provision has been superseded.

Changes to legislation: Trade Marks Act 1994, Section 11 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

For this purpose an “earlier right” means an unregistered trade mark or other sign continuously used in relation to goods or services by a person or a predecessor in title of his from a date prior to whichever is the earlier of—

- (a) the use of the first-mentioned trade mark in relation to those goods or services by the proprietor or a predecessor in title of his, or
- (b) the registration of the first-mentioned trade mark in respect of those goods or services in the name of the proprietor or a predecessor in title of his;

and an earlier right shall be regarded as applying in a locality if, or to the extent that, its use in that locality is protected by virtue of any rule of law (in particular, the law of passing off).

Textual Amendments

- F1** Words in s. 11(1) substituted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **12(2)** (with Pt. 5)
- F2** S. 11(1A) omitted (31.12.2020) by virtue of [The Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/269\)](#), reg. 1(1), **Sch. 3 para. 7(2)** (with Sch. 5 para. 7(1)(A), 8) (as amended by [S.I. 2020/1637](#), regs. 1(6), **3**, [S.I. 2020/1661](#), regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by [S.I. 2021/1235](#), regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F3** S. 11(1A)(1B) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **12(3)** (with Pt. 5)
- F4** Words in s. 11(1B) omitted (31.12.2020) by virtue of [The Trade Marks \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/269\)](#), reg. 1(1), **Sch. 3 para. 7(3)** (with Sch. 5 para. 7(1)(A), 8) (as amended by [S.I. 2020/1637](#), regs. 1(6), **3**, [S.I. 2020/1661](#), regs. 1(2)(b), **12**, 16(2) and (26.11.2021) by [S.I. 2021/1235](#), regs. 3, **4**); 2020 c. 1, **Sch. 5 para. 1(1)**)
- F5** Words in s. 11(2)(a) substituted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **12(4)** (with Pt. 5)
- F6** Words in s. 11(2)(b) substituted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **12(5)** (with Pt. 5)
- F7** Words in s. 11(2)(c) substituted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **12(6)** (with Pt. 5)

Status:

Point in time view as at 31/12/2020. This version of this provision has been superseded.

Changes to legislation:

Trade Marks Act 1994, Section 11 is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.