



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}(1A) A registered trade mark is not infringed by the use of a later registered European Union trade mark where that later European Union trade mark would not be declared invalid as a result of Article 60(1), (3), (4), 61(1), (2) or 64(2) of the European Union Trade Mark Regulation.

(1B) Where subsection (1) or (1A) 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 [^{F3}an individual] of his own name or address,
- (b) the use of [^{F4}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 [^{F5}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.

Status: Point in time view as at 14/01/2019. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Section 11. (See end of Document for details)

- (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.

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)(1B) inserted (14.1.2019) by [The Trade Marks Regulations 2018 \(S.I. 2018/825\)](#), regs. 1(1), **12(3)** (with Pt. 5)
- F3** 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)
- F4** 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)
- F5** 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 14/01/2019. This version of this provision has been superseded.

Changes to legislation:

There are currently no known outstanding effects for the Trade Marks Act 1994, Section 11.