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STATUTORY INSTRUMENTS

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**2018 No. 825**

**The Trade Marks Regulations 2018**

**PART 2**

Amendments to the 1994 Act

**Infringement of registered trade mark**

- 10.**—(1) Section 10<sup>M1</sup> is amended as follows.
- (2) After subsection (3) insert—
- “(3A) Subsection (3) applies irrespective of whether the goods and services in relation to which the sign is used are identical with, similar to or not similar to those for which the trade mark is registered.
- (3B) Where the risk exists that the packaging, labels, tags, security or authenticity features or devices, or any other means to which the trade mark is affixed could be used in relation to goods or services and that use would constitute an infringement of the rights of the proprietor of the trade mark, a person infringes a registered trade mark if the person carries out in the course of trade any of the following acts—
- (a) affixing a sign identical with, or similar to, the trade mark on packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark may be affixed; or
- (b) offering or placing on the market, or stocking for those purposes, or importing or exporting, packaging, labels, tags, security or authenticity features or devices, or any other means to which the mark is affixed.”.
- (3) In subsection (4)(c), after “under the sign;” omit “or”.
- (4) After subsection (4)(c), insert—
- “(ca) uses the sign as a trade or company name or part of a trade or company name;”.
- (5) In subsection (4)(d)—
- (a) for “or” substitute “ and ”;
- (b) after “advertising” insert “ ; or ”.
- (6) After subsection (4)(d), insert—
- “(e) uses the sign in comparative advertising in a manner that is contrary to the Business Protection from Misleading Marketing Regulations 2008<sup>M2</sup>.”.
- (7) Omit subsections (5) and (6).

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**Marginal Citations**

**M1** Section 10 was amended by [S.I. 2004/946](#), [regulations 3](#) and 7(2).

**M2** [S.I. 2008/1276](#) amended by [S.I. 2013/2701](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The Trade Marks Regulations 2018, Section 10.