



Trade Marks Amendment (Madrid Protocol) Act 2000

No. 117, 2000

An Act to amend the *Trade Marks Act 1995*, and for related purposes

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Schedule 1—Protected international trade marks under the Madrid Protocol

Trade Marks Act 1995

An Act to amend the *Trade Marks Act 1995*, and for related purposes

[Assented to 7 September 2000]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Trade Marks Amendment (Madrid Protocol) Act 2000*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) within the period of 12 months beginning on the day on which it receives the Royal Assent, it commences on the first day after the end of that period.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Protected international trade marks under the Madrid Protocol

Trade Marks Act 1995

1 Section 6 (at the end of the definition of *registered trade mark*)

Add:

Note: In addition, the regulations may provide for the effect of a protected international trade mark: see Part 17A.

2 At the end of subsection 20(1)

Add:

Note 3: In addition, the regulations may provide for the effect of a protected international trade mark: see Part 17A.

3 At the end of subsection 44(1)

Add:

Note 4: The regulations may provide that an application must also be rejected if the trade mark is substantially identical with, or deceptively similar to, a protected international trade mark or a trade mark for which there is a request to extend international registration to Australia: see Part 17A.

4 At the end of subsection 44(2)

Add:

Note 4: The regulations may provide that an application must also be rejected if the trade mark is substantially identical with, or deceptively similar to, a protected international trade mark or a trade mark for which there is a request to extend international registration to Australia: see Part 17A.

5 At the end of subsection 120(1)

Add:

Note 3: In addition, the regulations may provide for the effect of a protected international trade mark: see Part 17A.

6 At the end of subsection 120(2)

Add:

Note 3: In addition, the regulations may provide for the effect of a protected international trade mark: see Part 17A.

7 At the end of subsection 120(3)

Add:

Note 4: In addition, the regulations may provide for the effect of a protected international trade mark: see Part 17A.

8 At the end of subsection 121(1)

Add:

Note 4: In addition, the regulations may provide for the effect of a protected international trade mark:
see Part 17A.

9 At the end of section 131

Add:

Note: In addition, the regulations may provide for the effect of a protected international trade mark:
see Part 17A.

10 At the end of subsection 145(1)

Add:

Note 3: In addition, the regulations may provide for the effect of a protected international trade mark:
see Part 17A.

11 At the end of subsection 146(1)

Add:

Note 3: In addition, the regulations may provide for the effect of a protected international trade mark:
see Part 17A.

12 At the end of section 148

Add:

Note 4: In addition, the regulations may provide for the effect of a protected international trade mark:
see Part 17A.

13 At the end of subsection 151(4)

Add:

Note 3: In addition, the regulations may provide for the effect of a protected international trade mark:
see Part 17A.

14 After Part 17

Insert:

Part 17A—Protected international trade marks under the Madrid Protocol

189A Regulations implementing the Madrid Protocol

- (1) The regulations may provide for such matters as are necessary to enable the performance of the obligations of Australia, or to obtain for Australia any advantage or benefit, under the Madrid Protocol.
- (2) In particular (but without limiting subsection (1)), the regulations may deal with the following matters:
 - (a) the procedure for dealing with applications for international registration of trade marks that are to be filed with the International Bureau through the intermediary of the Trade Marks Office;
 - (b) the procedure for dealing with requests to extend to Australia the protection resulting from international registration of trade marks;
 - (c) the protection given to protected international trade marks in Australia;
 - (d) the circumstances in which such protection ceases and the procedures to be followed in cases of cessation;
 - (e) the cancellation of an international registration at Australia's request, as contemplated by Article 6 of the Madrid Protocol;
 - (f) the effect of cancelling an international registration.
- (3) Regulations made for the purposes of this section:
 - (a) may be inconsistent with this Act; and
 - (b) prevail over this Act (including any other regulations or other instruments made under this Act), to the extent of any inconsistency.
- (4) In this section:

International Bureau means the International Bureau of the World Intellectual Property Organization.

international registration of a trade mark means registration of the mark in the register of the International Bureau.

Madrid Protocol means the Protocol Relating to the Madrid Agreement concerning the International Registration of Marks, as signed at Madrid on 28 June 1989.

protected international trade mark means a trade mark to which protection resulting from international registration of the mark is extended in Australia in accordance with the regulations.

[Minister's second reading speech made in—
House of Representatives on 28 June 2000
Senate on 17 August 2000]
