

GENERAL NOTICE

NOTICE 2043 OF 2005

DEPARTMENT OF TRADE AND INDUSTRY MERCHANDISE MARKS ACT, 1941 (ACT 17 OF 1941)

NOTICE OF INTENTION TO DESIGNATE THE CAPE ARGUS CYCLE TOUR AS A "PROTECTED EVENT" IN TERMS OF SECTION 15A OF THE MERCHANDISE MARKS AMENDMENT ACT, 2002.

In terms of section 15A of the Merchandise Marks Amendment Act, 2002, the Minister of Trade and Industry may designate an event as a "protected event", provided the following conditions complied with:

1. The Minister must consult with the public or stakeholders who should assist the Minister in establishing if such an event should be designated as a "protected event".
2. The event must be in the public interest, and
3. The organizers must create opportunities for small businesses, in particular those from previously disadvantaged communities.

The Cape Argus Cycle Tour has submitted an application to the Minister to designate the Cycle Tour 2006 as a "protected event". In order for the Minister to carry out his function notice is hereby given to the public to make their representations and to raise any objections to such intention to designate. For ease of reference, a copy of section 15A is attached.

Interested persons are invited to forward their written comments or submissions to **Mr Netshitenzhe**, Director of Commercial Law and Policy, fax number 012-3942506 or Private Bag X84, Pretoria, 0001 or e-mail McDonaldN@thedti.gov.za and must reach him within thirty (30) days from publication of this Notice.

MS ASTRID LUDIN
DEPUTY DIRECTOR -GENERAL

15A Abuse of trade mark in relation to event

(1) (a) The Minister may, after investigation and proper consultation and subject to such conditions as may be appropriate in the circumstances, by notice in the *Gazette* designate an event as a protected event and in that notice stipulate the date-

- (i) with effect from which the protection commences; and
- (ii) on which the protection ends, which date may not be later than one month after the completion of termination of the event.

(b) The Minister may not designate an event as a protected event unless the staging of the event is in the public interest and the Minister is satisfied that the organizers have created sufficient opportunities for small businesses and in particular those of the previously disadvantaged communities.

(2) For the period during which an event is protected, no person may use a trade mark in relation to such event in a manner which is calculated to achieve publicity for that trade mark and thereby to derive special promotional benefit from the event, without the prior authority of the organizer of such event.

(3) For the purposes of subsection (2), the use of a trade mark includes-

- (a) any visual representation of the trade mark upon or in relation to **goods** or in relation to the rendering of services;
- (b) any audible reproduction of the trade mark in relation to goods or the rendering of services; or
- (c) the use of the trade mark in promotional activities, which in any way, directly or indirectly, is intended to be brought into association with or to allude to an event.

(4) Any person who contravenes subsection (2) shall be guilty of an offence.

(5) For the purposes of this section 'trade mark' includes a mark.

[S. 15A inserted by s. 2 of Act 61 of 2002.]

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