

Disclaimer: The National Coat of Arms is a registered trademark of government and may only be used by national government departments. All other entities require the permission of the GCIS to utilise the Coat of Arms.

Protection of the national Coat of Arms

The national Coat of Arms and its motto are the property of the State. The copy and reproduction of the national Coat of Arms for commercial or other uses, is vested in The Presidency.

The national Coat of Arms endorses the seal of authority and integrity and should not be utilised for fraudulent or unauthorised transactions.

The national Coat of Arms has considerable legal protection arising from various Acts of Parliament and international agreements and protocols:

The Trade Marks Act, 1993 (Act 194 of 1993)

This legislation allows trade-mark owners to register their trade marks for particular goods and services, and thereby obtain monopoly protection. Section 10(8) provides that the Registrar of Trade Marks must refuse any trade-mark application which consists of the armorial bearings or other State emblem of the Republic, or any imitation thereof from a heraldic point of view, if that application was filed without the necessary authority. The Registrar of Trade Marks is required to refuse any application which conflicts with this section. The Government is not obliged to register the South African national Coat of Arms as a trade mark before this section will apply. The effect of this is that no unauthorised person can register the South African national Coat of Arms as a trade mark.

The Merchandise Marks Act, 1941 (Act 17 of 1941)

This legislation prohibits the use of certain marks. Section 14 provides that any person who, without the authority of the Minister of Trade and Industry, uses the South African national Coat of Arms in connection with their business or goods is guilty of an offence. In addition, it is an offence to use in connection with a business, any device, emblem or words which falsely suggest State authority. A fine of R5 000 for each infringing article can be imposed, alternatively, a custodial sentence of three years, or both. Again, no registration of the South African national Coat of Arms by the Government is required before these prohibitions apply. The effect of this is that no unauthorised person can use the South African national Coat of Arms in a commercial manner.

The Heraldry Act, 1962 (Act 18 of 1962)

This legislation allows a body to register its coat of arms and thereby stops third-party use of its coat of arms. Once a coat of arms is registered, Section 22 makes it a criminal offence to use that coat of arms or any imitation thereof in the course of trade without the authority of the body in whose name the coat of arms is registered. A fine of R1 000 can be imposed. In addition, Section 21 provides

that the body in whose name it is registered can bring a civil action against an infringer, seeking damages and an interdict.

Section 22A of the Heraldry Act, 1962 (Act 18 of 1962), protects the national Coat of Arms from any indecent treatment. Any person who commits any act which displays contempt for the national Coat of Arms of the Republic or which is likely to hold it up to ridicule, shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or, in default of payment, to imprisonment for a period not exceeding five years or both.

Section 20 (1) of the Heraldry Act, 1962 protects the national Coat of Arms as heraldic representation from being ridiculed or compromised as part of artistic expression in the public arena.

The South African national Coat of Arms has been registered in the name of the Government. Section 5 (a) provides that the South African national Coat of Arms will be registered automatically by the Bureau of Heraldry without any formal application by the Government being required. Sections 21 and 22 therefore apply to the South African national Coat of Arms.

The Copyright Act, 1978 (Act 98 of 1978)

The Copyright Act protects a wide range of work, including artistic work from being copied. The national Coat of Arms qualifies as an artistic work. Section provides that the State will enjoy copyright in any work made under the direction or control of the State. Thus, the State, as represented by the Government Printer, has copyright protection until the year 2050.

The creator of the national Coat of Arms has signed a formal assignment of the copyright. The State is entitled to sue anyone who copies the South African national Coat of Arms for copyright infringement, claiming an interdict and damages. In addition, if anyone knowingly trades in goods featuring an unauthorised copy of the South African national Coat of Arms, this will be a criminal offence.

The words appearing on the South African national Coat of Arms '!ke e:/xarra //ke' – which mean 'diverse people unite' are declared a prohibited mark under Section 15 of the Merchandise Marks Act, 1941 (Act 17 of 1941). This includes the English translation. The effect of this makes it an offence for anyone to use these words in a commercial context.

The South African national Coat of Arms will enjoy legal protection in most countries. South Africa is a party to the Paris Convention for the Protection of Industrial Property, a treaty which has been signed by most countries. Article 6 provides that all member countries must agree to refuse registration of, and to prohibit use of, armorial bearings and other State emblems of member countries without authorisation.