

**CHAPTER 03:05**  
**PROTECTED NAMES**  
ARRANGEMENT OF SECTIONS

SECTION

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First and Second Schedules - Protected Names

Act 25, 1972,  
S.I. 74, 1984,  
Act 14, 2005.

**An Act to safeguard the dignity of certain words and to prevent their improper use for professional, commercial and other purposes and for matters incidental thereto and connected therewith.**

[Date of Commencement: 3rd November, 1972]

**1. Short title**

This Act may be cited as the Protected Names Act.

**2. Interpretation**

In this Act-

"**protected name**" means any of the names or words specified in the First Schedule, and includes any abbreviation of any such name or word.

**3. Prohibition of improper use of protected names**

(1) Notwithstanding anything contained in any written law, no person shall, except with the written permission of the President-

- (a) use or permit to be used in connection with or in furtherance of any trade, business, calling or profession any protected name;
- (b) use or display, or permit to be used or displayed, any protected name as an advertisement for any trade, business, calling or profession;
- (c) use any protected name in the title of any patent or on any trade mark or design; or
- (d) manufacture, import, sell, offer for sale, expose for sale, possess for the purpose of sale or with intent to sell or publish any article, thing, matter or substance bearing any protected name or any article, thing, matter or substance on which or in respect of which any title, trade mark or design is used in contravention of paragraph (c).

(2) Nothing in subsection (1) shall apply or be deemed to apply to the publication of any *bona fide* news item (whether in a newspaper or by any other medium) or to the publication in a newspaper or other publication duly registered under the Printed Publications Act, or in any newspaper exempted from registration under that Act, of any article connected with any *bona fide* news item, and not being an article in connection with or in furtherance of, or as an advertisement for, any trade, business, calling or profession.

(3) Nothing in subsection (1) shall apply to any limited liability company registered under the Companies Act which has any protected name as part of its registered name in so far as such limited liability company uses its registered name in the ordinary course of trade and

business.

(4) Any person who contravenes this section or who fails or neglects to comply with the conditions imposed by the President in respect of a permit issued to him under this section shall be liable to a fine not exceeding P1000 or to imprisonment for a term not exceeding one year, or to both, and for every day on which the offence continues after he has been convicted for an offence under this section, shall be liable in addition to a fine not exceeding P100 or to imprisonment for a term not exceeding one month, or to both.

#### **4. Restriction on use of protected names**

(1) Notwithstanding anything contained in any written law, save under the authority of a written permit issued by the President, no business, co-operative or other society, trade union, club or other association of persons shall be registered by or purport to be registered by, or use for its own purposes, any protected name or any name or names of which any protected name forms part:

Provided that this section shall not apply to any political party specified in the Second Schedule in respect of the name by which it is therein identified.

(2) The President may by order published in the *Gazette* exempt from this section such businesses, co-operative or other societies, trade unions, clubs or other persons or associations as may be specified in such order, and to the extent or subject to such conditions as may be specified in such order.

(3) Any business, co-operative or other society, trade union, club, association or person contravening this section, or failing or neglecting to comply with the conditions imposed by the President in respect of a permit issued under this section, and any director, partner, manager or officer of any such company, business, society, trade union, club or association shall be liable to a fine not exceeding P500 or to imprisonment for a term not exceeding six months, or to both.

#### **5. Power to revoke**

Any permit issued by the President for the purposes of this Act may be given subject to such conditions as the President thinks fit, and the President may at any time at his discretion revoke any permit issued by him or vary the conditions thereof

#### **6. Regulations**

The President may make regulations for the better carrying into effect of this Act and without prejudice to the generality of the foregoing may make regulations regulating the manner in which the application may be made to him for his permission under this Act, prescribing the form of any permit for which such permission may be given and fixing any fee or any royalty to be paid in respect of such application and permit.

**7. Sanction to prosecute** No prosecution for an offence under this Act shall be instituted without the prior sanction in writing of the Director of Public Prosecutions.

#### **8. Amendment of First Schedule**

The President may, by order published in the *Gazette*, amend the First Schedule to this Act.

### **FIRST SCHEDULE PROTECTED NAMES**

1. The word "Commonwealth"
2. The word "Government"
3. The word "National"
4. The word "State"
5. The words "United Nations"

### **SECOND SCHEDULE PROTECTED NAMES**

Botswana National Front