



REPUBLIC OF NAURU

# TRADEMARKS BILL 2019

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No. of 2019

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A Bill for an Act to establish the legal framework for the registration and protection of trademarks and for related purposes.

Certified: [ ]

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Enacted by the Parliament of the Republic as follows:

## PART 1 – PRELIMINARY

### 1 Short Title

This Act may be cited as the *Trademarks Act 2019*.

### 2 Commencement

This Act commences on certification by the Speaker.

### 3 Act binds the Republic

This Act binds the Republic.

### 4 Interpretation

In this Act:

**‘applicant’** means a person who seeks an application for the registration of a mark or sign as a trademark;

**‘assignment’** includes transfer or transmission of a trademark;

**‘authorised user’** includes assignee;

**‘condition’** includes a limitation of the exclusive right to use a trademark given by the registration of the trademark including a limitation of that right as to:

- (a) mode of use;
- (b) use in relation to goods to be sold or otherwise traded in the Republic;
- (c) use in relation to services provided within the Republic; or
- (d) use in relation to goods to be exported to any market outside the Republic.

**‘deceptively similar’** means a trademark is taken to be deceptively similar to another trademark that is likely to deceive or cause confusion;

**‘limitation’** means any limitation of the exclusive right to the use of a trademark given by a person at the time of registration as owner thereof, including limitations of that right as to mode of use and use in relation to goods to be sold or services to be performed;

**‘mark’** includes a sign, slogan, device, brand, heading, label, ticket name, word, letter, numeral, aspect of packaging, shape, colour, sound, scent, hologram, motions, textures or any combinations thereof;

**‘owner’** means:

- (a) in relation to a trademark, the person in whose name the trademark is registered; or

(b) in relation to an unregistered trademark that is a well known trademark, the person to whom the unregistered mark belongs;

**'Register'** means the register of trademarks established under section 7;

**'Secretary'** means the Secretary for Justice;

**'sign'** includes any letter, word, name, signature, numeral, device, brand, heading, label, ticket, shape, colour, aspect of packaging or any combination thereof;

**'similar goods'** means goods are similar to other goods if they are the same as the other goods or if they are of the same description as that of the other goods;

**'similar services'** means services are similar to other services if they are similar as other services or if they are of the same description as that of the other services;

**'trade'** includes business or profession;

**'trademark'** means any mark which is registered under this Act and is capable of distinguishing goods or services dealt with or provided in the course of trade by a person from goods or services so dealt with or provided by any other person.

## **5 Objective**

The objective of this Act is to:

- (a) provide a framework for the registration of trademarks;
- (b) provide protection for registered trademarks;
- (c) provide for the scope of rights protected by registered trademarks;
- (d) provide for the management, ownership and use of trademarks;
- (e) protect the consumers from being deceived by counterfeit goods and services marked with trademarks of the quality and origin of goods and services; and
- (f) provide for the remedies, offences and penalties for breach of trademarks.

## **PART 2 – REGISTRAR OF TRADEMARKS**

### **6 Registrar of Trademarks**

- (1) There shall be a Registrar of Trademarks.
- (2) The Secretary shall be the Registrar of Trademarks.
- (3) The Registrar shall:
  - (a) be responsible for the registration of trademarks;