

(4) A corporate body or a firm may act as an agent if the majority of the Directors of such corporate body or if the majority of the partners of the firm, as the case may be, are registered agents.

(5) The registration of an agent under this Act shall be valid for a period of three years and shall be renewable, subject to the payment of a prescribed fee, for a consecutive period of three years provided, however, that a period of grace of six months shall be allowed for renewal upon payment of such surcharge as may be prescribed.

(6) Notwithstanding anything in the provisions of subsection (2), any duly appointed agent, irrespective of not being registered under this Chapter, may represent his clients, for a period of two years from the date on which the provisions of this Chapter comes into operation.

(7) The power of attorney referred to in this Act means a power of attorney duly executed or a letter of authorisation duly signed by the principal.

CHAPTER XXXVII

FUND

Fund.

176. (1) For the purposes of this Act there shall be established a Fund which shall be maintained in such manner as the Secretary to the Ministry of the Minister in charge of the subject of Trade in consultation with the Director-General may direct.

(2) There shall be paid into the Fund two-thirds of every fee or charge, levied or recoverable under this Act or any regulation made thereunder.

(3) There shall be paid out of the Fund referred to in subsection (1) all sums of money required to defray any expenditure incurred by the Director-General in the exercise, discharge and performance of his powers, functions and

duties under this Act and all such sums of money as are required to be paid out of such Fund by or under this Act or any regulation made thereunder.

(4) The balance one-third of the money paid into the Fund under subsection (2), of each and every such fee or charge levied or recoverable under this Act or any regulation made thereunder shall be credited to the Consolidated Fund.

(5) The Secretary to the Ministry of the Minister in charge of the subject of Trade shall as soon as possible after the end of each calendar year prepare a report on the administration of the Fund and shall cause to be maintained a full and appropriate account of the Fund in respect of each calendar year.

(6) The Auditor-General shall audit the accounts of the Fund in terms of Article 154 of the Constitution.

(7) The financial year of the Fund shall be the calendar year.

CHAPTER XXXVIII

OFFENCES AND PENALTIES

177. Any person who makes or causes to be made a false entry in any of the registers kept under this Act, or a writing falsely purporting to be a copy of an entry in any such register, or produces, or tenders, or causes to be produced or tendered in evidence any such writing, knowing the entry or writing to be false shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding rupees five hundred thousand or to imprisonment for a term not exceeding seven years.

Falsification of entries in any register.

178. (1) Any person who wilfully infringes any of the rights protected under Part II of this Act shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not exceeding rupees five hundred

Infringement of Copyright.

thousand or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and in the case of a second or subsequent conviction such fine or term of imprisonment or both such fine and imprisonment may be doubled.

(2) Any person knowing or having reason to believe that copies have been made in infringement of the rights protected under Part II of the Act, sells, displays for sale, or has in his possession for sale or rental or for any other purpose of trade any such copies, shall be guilty of an offence and shall be liable on conviction by a Magistrate for a fine not exceeding rupees five hundred thousand or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and in the case of a second or subsequent conviction, to double the amount of a such fine or term of imprisonment or both.

(3) Any person knowingly or having reasons to believe that he is in possession or has access to a computer program infringing the rights of another person, and wilfully makes use of such program for commercial gain, shall be guilty of an offence and shall be liable on conviction by a Magistrate for a fine not exceeding rupees five hundred thousand or to imprisonment for a period of six months or to both such fine and imprisonment.

(4) The Magistrate may, whether the alleged offender is convicted or not, order that all copies of the work and all implements used for the infringement, or all plates in the possession of the alleged offender, which appear to him to be infringing copies, or plates or implements used for the purpose of making infringing copies, shall be destroyed or delivered up to the owner of the right, or otherwise dealt with in such manner as the Magistrate may think fit.

179. Any person who wilfully infringes the rights of any registered owner, assignee or licensee of an Industrial Design shall be guilty of an offence and shall be liable on conviction after trial before a Magistrate to a fine not

exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and in the case of a second or subsequent conviction to double the amount of such fine or term of imprisonment or both.

180. (1) Any person who, for industrial or commercial purposes, makes a representation —

False
representations
regarding
industrial Designs.

- (a) with respect to an Industrial Design not being a registered Industrial Design to the effect that it is a registered Industrial Design ;
- (b) to the effect that a registered Industrial Design is registered in respect of any product, regarding which registration has not been carried out ;
- (c) to the effect that the registration of an Industrial Design gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations recorded in the register, the registration does not give that right,

shall be guilty of an offence, and shall on conviction after trial before a Magistrate be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) A person shall be deemed to represent that an Industrial Design is registered if he uses in connection with the Industrial Design the word “registered”, or any word or words expressing or implying that registration has been obtained for the Industrial Design.

181. Any person who wilfully infringes the rights of any registered owner, assignee or licensee of a patent shall be guilty of an offence, and shall be liable on conviction after trial before a Magistrate to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment, and in the case

Infringement of
Patents.

of a second or subsequent conviction to double the amount of such fine or term of imprisonment or both.

False
representations
regarding Patents.

182. (1) Any person who, for industrial or commercial purposes, makes a representation –

- (a) with respect to a patent not being a registered patent to the effect that it is a registered Patent ;
- (b) to the effect that a registered Patent is registered in respect of any product or process regarding which registration has not been carried out ; or
- (c) to the effect that the registration of a Patent gives an exclusive right to the use thereof in any circumstances in which, having regard to limitations recorded in the register, the registration does not give that right,

shall be guilty of an offence, and shall be liable on conviction after trial before a Magistrate to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment.

(2) A person shall be deemed to represent a Patent as registered if he uses in connection with the Patent the word “registered”, or any word or words expressing or implying that registration has been obtained for the Patent.

Unlawful
disclosure of
information
relating to Patents.

183. Any person who being or having been employed in or at the office, communicates any information relating to Patents or matters connected therewith obtained by him during the course of his employment in or at the office to any person not entitled or authorized to receive such information, or discloses such information to the public or makes any other unlawful use of such information shall be guilty of an offence, and shall on conviction after trial before a Magistrate be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

184. Any person who wilfully infringes the rights of any registered owner, assignee or licensee of a Mark, shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and such imprisonment and in the case of a second or subsequent conviction to double the amount of such fine or term of imprisonment or both such fine and imprisonment.

Infringement of Marks.

185. (1) Any person who, for industrial or commercial purposes, makes a representation—

False representations regarding marks.

- (a) with respect to a Mark not being a registered Mark to the effect that it is a registered Mark ;
- (b) to the effect that a registered mark is registered in respect of any goods or services regarding which registration has not been carried out ; or
- (c) to the effect that the registration of a mark gives an exclusive right to the use thereof in any circumstances, in which having regard to limitations recorded in the register, the registration does not give that right,

shall be guilty of an offence and shall on conviction after trial before a Magistrate be liable to a fine not exceeding five hundred thousand rupees or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

(2) A person shall be deemed to represent a Mark as registered if he uses in connection with the Mark the word “registered”, or any word or sign expressing or implying that registration has been obtained for the mark.

186. (1) Any person who—

Other offences as to marks and trade descriptions.

- (a) forges any Mark ; or
- (b) falsely applies to goods any Mark or Marks so nearly resembling a registered Mark as to be likely to mislead ; or

- (c) makes any die, seal block, machine, or other instrument for the purpose of forging, or to be used for forging, a Mark ; or
- (d) applies any false trade description to goods ; or
- (e) disposes of, or has in his possession, any die, seal block, machine, or other instrument for the purpose of forging a Mark ; or
- (f) causes any of the things referred to in this subsection to be done,

shall, subject to the provisions of this Part, and unless he proves that he acted without intent to defraud, be guilty of an offence.

(2) Any person who sells or exposes for sale, or has in his possession for sale, or any purpose of trade or manufacture, any goods or things to which any forged Mark or false trade description is applied, or to which any Mark so nearly resembling a registered Mark so as to be likely to mislead, is falsely applied, as the case may be, shall, unless he proves—

- (a) that having taken all reasonable precautions against committing an offence he had at the time of the commission of the alleged offence no reason to suspect the genuineness of the Mark, or trade description ; and
- (b) that on demand made by or on behalf of the prosecutor he gave all the information in his power with respect to the persons from whom he obtained such goods or things ; or
- (c) that otherwise he had acted innocently,

be guilty of an offence.

(3) Any person who imports any piece-goods ordinarily sold by length or by the piece, manufactured outside Sri Lanka, or who sells or exposes for, or has in his possession for sale or any purpose of trade, any piece-goods ordinarily