

No. 19/11/2012-Public
Government of India / Bharat Sarkar
Ministry of Home Affairs / Grih Mantralaya

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North Block, New Delhi.
Dated the 28th May, 2012.

28 MAY 2012



To

The Chief Secretaries / Administrators of
all State Governments / UT Administration,
Secretaries of all Ministries/Depts. of Govt. of India.

Subject:-

Strict compliance of the provisions contained in the Flag Code of India 2002, Prevention of Insults to National Honour Act, 1971; State Emblem of India (Prohibition of Improper Use) Act, 2005 and in the State Emblem of India (Regulation of Use) Rules, 2007

Sir/Madam,

As per direction given by the Hon'ble High Court of Allahabad, Lucknow Bench, Lucknow in hearing of the case no. Writ Petition No. 5920 (M/B) (PIL) of 2001, copies of the Flag Code of India 2002, Prevention of Insults to National Honour Act, 1971, the State Emblem of India (Prohibition of Improper Use) Act, 2005 and the State Emblem of India (Regulation of Use) Rules, 2007 [read with the State Emblem of India (Regulation of Use) Amendment Rules, 2010] are enclosed herewith for strict compliance of the provisions contained in these Acts, Rules and Code.

It is also requested that suitable instructions in this regard may please be issued to all the concerned agencies. Strict action should be taken against the concerned officials and individuals/organisations for any violation of the provisions of the said Acts, Rules and Flag Code of India 2002.

Encls. : As above

Yours faithfully,

Shyamala Mohan
(Shyamala Mohan)
Director to the Govt. of India
Tel. No. 2309 2587



1255-1560
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15/6/12



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II — Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं० 61] नई दिल्ली, बुधवार, दिसम्बर 21, 2005 / अग्रहायण 30, 1927

No. 61] NEW DELHI, WEDNESDAY, DECEMBER 21, 2005 / AGRAHAYANA 30, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 21st December, 2005 / Agrahayana 30, 1927 (Saka)

The following Act of Parliament received the assent of the President on the 20th December, 2005 and is hereby published for general information:—

THE STATE EMBLEM OF INDIA (PROHIBITION OF IMPROPER USE) ACT, 2005

No. 50 of 2005

[20th December, 2005.]

An Act to prohibit the improper use of State Emblem of India for professional and commercial purpose and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the State Emblem of India (Prohibition of Improper Use) Act, 2005.

Short title,
extent,
application
and
commencement

(2) It extends to the whole of India, and also applies to citizens of India outside India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "competent authority" means any authority competent under any law for the time being in force to register any company, firm, other body of persons or any trade mark or design or to grant a patent;

(b) "emblem" means the State Emblem of India as described and specified in the Schedule to be used as an official seal of the Government.

Prohibition
of improper
use of
emblem.

3. Notwithstanding anything contained in any other law for the time being in force, no person shall use the emblem or any colourable imitation thereof in any manner which tends to create an impression that it relates to the Government or that it is an official document of the Central Government or, as the case may be, the State Government, without the previous permission of the Central Government or of such officer of that Government as may be authorised by it in this behalf.

Explanation.— For the purposes of this section, "person" includes a former functionary of the Central Government or the State Governments.

4. No person shall use the emblem for the purpose of any trade, business, calling or profession or in the title of any patent, or in any trade mark or design, except in such cases and under such conditions as may be prescribed.

Prohibition
of use of
emblem for
wrongful gain.
Prohibition of
registration of
certain
companies, etc.

5. (1) Notwithstanding anything contained in any other law for the time being in force, no competent authority shall,—

(a) register a trade mark or design which bears the emblem, or

(b) grant a patent in respect of an invention which bears a title containing the emblem.

(2) If any question arises before a competent authority whether any emblem is an emblem specified in the Schedule or a colourable imitation thereof, the competent authority shall refer the question to the Central Government and the decision of the Central Government thereon shall be final.

General powers
of Central
Government
to regulate use
of emblem.

6. (1) The Central Government may make such provision by rules as appears to it to be necessary, to regulate the use of the emblem in official seal that is used in offices of the Central Government and the State Government and their organisations including diplomatic missions abroad, subject to such restrictions and conditions as may be prescribed.

(2) Subject to the provisions of this Act, the Central Government shall have powers—

(a) to notify the use of emblem on stationery, the method of printing or embossing it on demi-official stationery by the constitutional authorities, Ministers, Members of Parliament, Members of Legislative Assemblies, officers of the Central Government and the State Governments;

(b) to specify the design of the official seal consisting of the emblem;

(c) to restrict the display of emblem on vehicles of constitutional authorities, foreign dignitaries, Ministers of the Central Government and the State Governments;

(d) to provide for guidelines for display of emblem on public buildings in India, the diplomatic missions and on the buildings occupied by the India's consulates abroad;

(e) to specify conditions for the use of emblem for various other purposes including the use for educational purposes and the armed forces personnel;

(f) to do all such things (including the specification of design of the emblem and its use in the manner whatsoever) as the Central Government considers necessary or expedient for the exercise of the foregoing powers.

Penalty.

7. (1) Any person who contravenes the provisions of section 3 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five thousand rupees, or with both, or if having been previously convicted of an offence under this section, is again convicted of any such offence, he shall be punishable for the second and for every subsequent offence with imprisonment

for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

(2) Any person who contravenes the provisions of section 4 for any wrongful gain shall be punishable for such offence with imprisonment for a term which shall not be less than six months, which may extend to two years and with fine which may extend to five thousand rupees.

8. No prosecution for any offence punishable under this Act shall be instituted, except with the previous sanction of the Central Government or of any officer authorised in this behalf by general or special order of the Central Government.

Previous
sanction for
prosecution.

9. Nothing in this Act shall exempt any person from any suit or other proceedings which might be brought against him under any other law for the time being in force.

Savings.

10. The provisions of this Act or any rule made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other enactment or instrument having effect by virtue of such enactment.

Act to have
overriding
effect.

11. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to
make rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) cases and conditions regulating the use of emblem under section 4;

(b) making rules to regulate the use of the emblem in official seal of the Government and specifying restrictions and conditions relating thereto under sub-section (1) of section 6;

(c) the use of emblem on stationery, design of official seal consisting of emblem and other matters under sub-section (2) of section 6;

(d) authorising officer by general or special order for giving previous sanction for instituting prosecution under section 8; and

(e) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

[See section 2(b)]

STATE EMBLEM OF INDIA

DESCRIPTION AND DESIGN

The State Emblem of India is an adaptation from the Sarnath Lion Capital of Asoka which is preserved in the Sarnath Museum. The Lion Capital has four lions mounted back to back on a circular abacus. The frieze of the abacus is adorned with sculptures in high relief of an elephant, a galloping horse, a bull and a lion separated by intervening Dharma Chakras. The abacus rests on a bell-shaped lotus.

The profile of the Lion Capital showing three lions mounted on the abacus with a Dharma Chakra in the centre, a bull on the right and a galloping horse on the left, and outlines of Dharma Chakras on the extreme right and left has been adopted as the State Emblem of India. The bell-shaped lotus has been omitted.

The motto "Satyameva Jayate"—Truth alone triumphs—written in Devanagari script below the profile of the Lion Capital is part of the State Emblem of India.

The State Emblem of India shall conform to the designs as set out in Appendix I or Appendix II.

APPENDIX I



सत्यमेव जयते

Note.— This design is in simplified form and meant for reproduction in small sizes, such as for use in stationery, seals and die-printing.

APPENDIX II



सत्यमेव जयते

Note.— This design is more detailed and meant for reproduction in bigger sizes.

T. K. VISWANATHAN,
Secy., to the Govt. of India.

PRINTED BY THE MANAGER, GOVT. OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY
THE CONTROLLER OF PUBLICATIONS, DELHI—2002.

NOTIFICATION

New Delhi, the 4th October, 2007

G.S.R. 643(E).— In exercise of the powers conferred by Section 11 of the State Emblem of India (Prohibition of Improper Use) Act, 2005 (50 of 2005), the Central Government hereby makes the following rules regulating the use of the State Emblem of India in official seal and on stationery and its design, namely :—

1. Short title, extent, application and commencement.— (1) These rules may be called the State Emblem of India (Regulation of Use) Rules, 2007.

(2) It extends to the whole of India and also to the citizens of India outside India.

(3) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "Act" means the State Emblem of India (Prohibition of Improper Use) Act, 2005 (50 of 2005);

(b) "Emblem" means the State Emblem of India as defined in clause (b) of Section 2 of the Act;

(c) "Schedule" means a Schedule appended to these rules;

(d) "State Government" in relation to a Union territory means the Administrator of that Union territory appointed by the President under article 239 of the Constitution.

3. Design of the official seal.— (1) The design of the Official Seal shall have the emblem enclosed in an oval or round frame.

(2) The name of the Ministry or the office shall appear between the inner and outer rims of the frame.

(3) The abbreviated form of the name of a Ministry or the office may be inscribed where it is not possible to accommodate the name in full.

4. Adoption by States or Union territories.— (1) A State Government may adopt the emblem as the official Emblem of the State or the Union territory, as the case may be, without obtaining the approval of the Central Government.

(2) Where a State Government proposes to incorporate the emblem or any part thereof in the Emblem of that State or Union territory, as the case may be, it shall do so after obtaining the prior approval of the Central Government and shall get the design and lay out approved by the Central Government :

Provided that where a State Government has already incorporated the emblem or part thereof in the Emblem of that State or Union territory, as the case may be, prior to the coming into force of these rules, it may, subject to the other provisions of these rules, continue to use the emblem.

5. Use in official seals.—The use of the emblem in official seal shall be restricted to the authorities specified in Schedule I.

6. Use on stationery.— (1) The use of the emblem on official or demi-official stationery shall be restricted to the authorities specified in the Schedule I aforesaid.

(2) The emblem, when printed or embossed on official or demi-official stationery, shall appear prominently on the middle of the top of such stationery.

7. Display on vehicles.—The use of the emblem on vehicles shall be restricted to the authorities specified in Schedule II.

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8. Display on public buildings.—(1) The emblem may be displayed on very important public buildings, like, the Rashtrapati Bhawan, Parliament House, Supreme Court and Central Secretariat buildings.

(2) The emblem may be displayed on Raj Bhawan or Raj Niwas and State Legislature, High Courts and Secretariat buildings of the States or the Union Territories that have adopted the emblem or have incorporated the emblem in the Emblem of the State or the Union Territory.

(3) The emblem may be displayed on the premises of India's Diplomatic Mission abroad and the heads of Missions may display the emblem at their residences in the countries of their accreditation.

(4) The emblem may be displayed on the buildings occupied by India's Consulates abroad at the entrance doors thereof and on the residences of Heads of consular posts in the countries of their accreditation.

9. Use for various other purposes.—Subject to the provisions of these rules, the emblem may be used for other purposes as are specified in Schedule III.

10. Restriction on the use of the emblem.—(1) No person (including former functionaries of the Government, like, former Ministers, former Members of Parliament, former Members of Legislative Assemblies, former judges and retired Government officials), other than those authorised under these rules, shall use the emblem in any manner.

(2) No Commission or Committee, Public Sector Undertaking, Bank, Municipal Council, Panchayat Raj Institution, Parishad, non-government organisation, University, other than those authorised under these rules, shall use the emblem in any manner.

(3) No association or body of persons, whether incorporated or not, shall use the emblem on their letter-heads, brochures, seats, crests, badges, house flags or for any other purpose in any manner.

(4) The stationery, including letter heads, visiting cards and greeting cards, with emblem printed or embossed on it, shall not bear words, like, Advocate, Editor, Chartered Accountant with the name of the person authorised to use the emblem under these rules on the stationery.

11. Cases and conditions restricting the use of the emblem.—No person shall use or continue to use the emblem or any colourable imitation thereof for the purpose of any trade, business, calling or profession or in the title of any patent, or in any trade mark or design:

Provided that a person or a group of persons, association, body, corporate, may use the emblem in connection with an event organised by it or a publication brought out jointly with a Ministry or Department of the Central or State Government, with the prior approval of the Central Government.

12. Availability of design of the emblem.—(1) Photographic designs of the emblem are available with, and can be obtained from, the Manager, Photo Litho Wing, Government of India Press, Minto Road, New Delhi.

(2) Sample of standard dies of the emblem can be obtained from the Office of the Chief Controller of Printing and Stationery, New Delhi.

SCHEDULE I

(See rules 5 and 6)

Constitutional or Statutory Authorities, Ministries or Departments of the Central Government, State Governments or Union Territory Administrations and other Government Functionaries which may use the Emblem.

- (i) President, Vice-President, Prime Minister and a Union Minister;
- (ii) Governors, Lieutenant Governors, Administrators, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union Territory, as the case may be;
- (iii) Office and officers of the Parliament of India;
- (iv) Judges and office and officers of the Judiciary;
- (v) Office and officers of the Planning Commission;
- (vi) Chief Election Commissioner of India, Election Commissioners and the office and officers of the Election Commission of India;
- (vii) Comptroller and Auditor General of India, the office and officers of the Comptroller and Auditor General of India;
- (viii) Chairperson and Members of the Union Public Service Commission and the office and officers of the Union Public Service Commission;
- (ix) Ministries, Departments and offices of the Central Government and their officers;

- (x) Diplomatic Missions abroad and their officers;
- (xi) Chief Ministers and Ministers of the States and the Union territories, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union territory;
- (xii) Members of Parliament and members of State or the Union territory Legislative Assemblies or Councils, as the case may be;
- (xiii) Ministries, Departments and offices of the State and the Union territory Governments and their officers, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union territory;
- (xiv) Office and officers of the State or the Union territory Legislative Assemblies or Councils, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union territory;
- (xv) Commissions and authorities, constituted or established by an Act of Parliament or set up by the Central Government;
- (xvi) Commissions and authorities constituted or established by an Act of the State Legislature or set up by the State Government, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union territory;

Explanation - For the purpose of this Schedule, the expression 'officer' shall mean a gazetted officer of the Central Government; or the State Government or the Union territory Administration.

SCHEDULE II

(See rule 7)

PART I

Constitutional Authorities and other Dignitaries which may Display the Emblem on their Cars

- (i) cars of Rashtrapati Bhawan, when the following dignitaries or their spouses are travelling by such vehicles:
 - (a) President,
 - (b) visiting Heads of foreign States,
 - (c) visiting Vice-Presidents of foreign State or dignitaries of equivalent status,
 - (d) visiting heads of foreign Governments or dignitaries of equivalent status like Crown Prince or Princess of a foreign State,
 - (e) the spare car following the car of the President;
- (ii) car of Vice-President when he or his spouse is travelling by such vehicle;
- (iii) cars of Raj Bhawan and Raj Niwas, if the emblem is adopted by, or incorporated in the Emblem of, that State or the Union territory, when the following dignitaries or their spouses are travelling by such vehicles within the State or the Union territory concerned:
 - (a) President,
 - (b) Vice-President,
 - (c) Governor of the State,
 - (d) Lieutenant Governor of the Union territory,
 - (e) Visiting Heads of foreign States,
 - (f) Visiting Vice-Presidents of foreign States or dignitaries of equivalent status,
 - (g) Visiting Heads of foreign Governments or dignitaries of equivalent status;
- (iv) cars and other means of transport used by the Heads of India's Diplomatic Missions in the countries of their accreditation;
- (v) cars and other means of transport used by the Heads of India's Counsellor posts abroad in the countries of their accreditation;
- (vi) cars maintained by the Protocol Division of the Ministry of External Affairs when in use for duty with the foreign dignitaries of the rank of Cabinet Ministers and above visiting India, and Ambassadors accredited to India on ceremonial occasions.

PART II

Authorities which may Display the Ashoka Chakra (which is Part of the Emblem) on Triangular Metal Plaques on their Cars

- (i) cars of the Prime Minister and Ministers of the Union, Speaker and Deputy Speaker of the Lok Sabha, Deputy Chairperson of the Rajya Sabha when travelling anywhere in India;
- (ii) cars of Chief Justice of India and Judges of the Supreme Court, and Chief Justices and Judges of High Courts within their respective territories;
- (iii) cars of Cabinet Ministers in States, Ministers of States in States, Speakers and Deputy Speakers of the State Legislative Assemblies, Chairmen and Deputy Chairmen of Councils of States, Ministers (other than Deputy Ministers) of Union territories with Legislature, and Speakers and Deputy Speakers of Legislative Assemblies in Union territories, when they are travelling within their State or Union territory, as the case may be (if the emblem is adopted by, or is incorporated in the Emblem of, the State or the Union territory).

SCHEDULE III

(See rule 9)

Other Purposes for which Emblem may be used

- (i) Visiting Cards of the functionaries or officers specified in Schedule-I for legitimate representational purpose;
- (ii) Greeting Cards sent by functionaries or officers specified in Schedule-I for legitimate representational purpose;
- (iii) official publications of the Government;
- (iv) films and documentaries produced by the Government;
- (v) stamp papers;
- (vi) Government advertisements, banners, pamphlets, boards, etc.;
- (vii) crests, flags, seats with such modification as considered necessary;
- (viii) identity cards, licenses, permits, etc., issued by the Government;
- (ix) websites of the Government;
- (x) coins, currency notes, promissory notes and postal stamps issued by the Mint or Press of the Government of India;
- (xi) Medals, Certificates and Sanads instituted by the Government;
- (xii) invitation cards for functions of the Government;
- (xiii) representational glassware crockery and cutlery used at the Rashtrapati Bhawan, Raj Bhawans, Raj Niwases and Indian Missions or Posts abroad;
- (xiv) Badges, collars, buttons, etc., with such modifications as are considered necessary, on the uniforms of—
 - (a) commissioned or gazetted officers of the armed forces of the Union;
 - (b) gazetted officers of uniformed services (other than armed forces) of the Union and such of the State Governments and Union territory Administrations that have adopted the emblem, or have incorporated the emblem in the Emblem of that State or Union territory;
 - (c) authorised staff of Rashtrapati Bhawan and Indian Missions or Posts abroad;
- (xv) school textbooks, books on history, art or culture or in any periodical as part of the text of a Chapter, Section, etc., for the purpose of explaining or illustrating the origin, significance or adoption of the emblem: Provided that the emblem shall not be used on the front page, title or cover of such publication so as to give an impression that it is a Government publication.

Explanation :—For the purpose of this Schedule, the "Government" includes the Central Government; the State Governments and Union territory Administrations, which have adopted or incorporated the emblem in the Emblem of that State or Union territory, as the case may be.

[F. No. 13/9/2006-Public]

ARUN KUMAR YADAV, Jt. Secy.