



# Trade Marks Act 1994

## 1994 CHAPTER 26

### PART I

#### REGISTERED TRADE MARKS

#### *[<sup>F1</sup>Unjustified threats*

#### **[<sup>F1</sup>21B Permitted communications**

- (1) For the purposes of section 21A(6), a communication containing a threat of infringement proceedings is a “permitted communication” if—
  - (a) the communication, so far as it contains information that relates to the threat, is made for a permitted purpose;
  - (b) all of the information that relates to the threat is information that—
    - (i) is necessary for that purpose (see subsection (5)(a) to (c) for some examples of necessary information), and
    - (ii) the person making the communication reasonably believes is true.
- (2) Each of the following is a “permitted purpose”—
  - (a) giving notice that a registered trade mark exists;
  - (b) discovering whether, or by whom, a registered trade mark has been infringed by an act mentioned in section 21A(2)(a), (b) or (c);
  - (c) giving notice that a person has a right in or under a registered trade mark, where another person's awareness of the right is relevant to any proceedings that may be brought in respect of the registered trade mark.
- (3) The court may, having regard to the nature of the purposes listed in subsection (2)(a) to (c), treat any other purpose as a “permitted purpose” if it considers that it is in the interests of justice to do so.
- (4) But the following may not be treated as a “permitted purpose”—
  - (a) requesting a person to cease using, in the course of trade, a sign in relation to goods or services,

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*Changes to legislation: There are currently no known outstanding effects for the Trade Marks Act 1994, Section 21B. (See end of Document for details)*

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- (b) requesting a person to deliver up or destroy goods, or
  - (c) requesting a person to give an undertaking relating to the use of a sign in relation to goods or services.
- (5) If any of the following information is included in a communication made for a permitted purpose, it is information that is “necessary for that purpose” (see subsection (1)(b)(i))—
- (a) a statement that a registered trade mark exists and is in force or that an application for the registration of a trade mark has been made;
  - (b) details of the registered trade mark, or of a right in or under the registered trade mark, which—
    - (i) are accurate in all material respects, and
    - (ii) are not misleading in any material respect; and
  - (c) information enabling the identification of the goods or their packaging, or the services, in relation to which it is alleged that the use of a sign constitutes an infringement of the registered trade mark.]

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**Textual Amendments**

- F1** Ss. 21-21F and cross-heading substituted for s. 21 (1.10.2017) by [Intellectual Property \(Unjustified Threats\) Act 2017 \(c. 14\), ss. 2\(2\), 8; S.I. 2017/771, reg. 2\(1\)\(b\) \(with reg. 3\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Trade Marks Act 1994, Section 21B.