

# British and Irish Lions Tour a protected event - ambush marketers banned

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30 Apr 2021

On 28 April 2021, Minister of Trade, Industry and Competition, Ebrahim Patel, advertised a Final Notice in the Government Gazette in terms of section 15A of the Merchandise Marks Act (the Act) which designates the British and Irish Lions Rugby Tour (the Tour) as a 'protected event'.



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The Lions squad is made up of the top rugby players from England, Ireland, Scotland and Wales who tour the Southern Hemisphere (South Africa, New Zealand and Australia) every four years. The Tour took place 12 years ago in South Africa, with this year being a whole lot different to the Tour in 2009 with the Covid-19 still in our midst. According to media reports, there will be significantly reduced crowds with local spectators only. It sure will be a different atmosphere this time around without the famous "Red Army" supporters.

The 'protected event' designation is to avoid ambush marketing. An ambush marketer can be described as a party who has not contributed financially to the event who then takes advantage of the publicity value thereof. For example, the tour's title sponsor being Castle Lager and the principal sponsors being Vodafone and Canterbury have paid significant sums to ensure that they can take advantage of the publicity value of the event.



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The designation gives the organiser the means to protect the rights of sponsors against parties who have not entered into any contractual relationship with the organisers. While the event is designated as protected, no person can use their trade mark in relation to the event which has as its aim to attract publicity for the trade mark. Contravention of the legislation is a

criminal offence.

The Minister has also advertised the Final Notice in the Gazette whereby certain emblems and words associated with the Tour or similar drawings, have been designated as 'prohibited marks'. This means that these marks cannot be used in connection with any trade, profession or occupation or event, or in connection with any other trade mark, mark or trade description applied to goods. The use of any of the prohibited marks will be a criminal offence.

Apart from the word and phrases, 'British and Irish Lions', 'Springboks' and 'SA Rugby', logos have also been declared prohibited, some, not all of which are shown below:



## ABOUT THE AUTHOR

Janine Hollesen of Werksmans attorneys made application on behalf of the organisers.

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