

TRADE DESCRIPTIONS AND FALSE ADVERTISEMENTS.

8° and 9° GEO. VI., No. XLVI.

No. 46 of 1944.

AN ACT to amend the Trade Descriptions and False
Advertisements Act, 1936.

[Assented to 24th January, 1945.]

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legislative
Council and Legislative Assembly of Western Australia,
in this present Parliament assembled, and by the
authority of the same, as follows:—

1. This Act may be cited as the *Trade Descriptions and False Advertisements Act Amendment Act, 1944*, and shall be read as one with the Trade Descriptions and False Advertisements Act, 1936 (No. 42 of 1936), hereinafter referred to as the principal Act. Short title.

2. A section is inserted in the principal Act after section one as follows:— New section.

- 1A. This Act is divided into Parts as follows:— Act divided into Parts.
- PART I., ss. 2 to 4—PRELIMINARY.
 - PART II., ss. 4A to 7A—TRADE DESCRIPTIONS.
 - DIVISION 1, ss. 4A to 4E—TEXTILE PRODUCTS.
 - DIVISION 2, s. 5—GOODS OTHER THAN TEXTILE PRODUCTS.

DIVISION 3, ss. 6 to 7A—GENERAL.

PART III., s. 8—FALSE ADVERTISEMENTS.

PART IV., ss. 9 to 12—INSPECTORS.

PART V., ss. 13 to 23—MISCELLANEOUS.

SCHEDULE—GOODS TO WHICH ACT APPLIES.

Insertion of
heading.

3. A heading is inserted in the principal Act immediately above section two as follows:—"Part I.—Preliminary."

Amendment
of s. 2.

4. Section two of the principal Act is amended as follows:—

(a) by inserting after the definition of "covering" new definitions as follows:—

"Distributor" means in relation to textile products any person who having in his possession, ownership or control imported textile products offers such products for sale either direct or through an agent or wholesaler or retailer, and includes contractors, jobbers, and makers-up engaged in any preliminary or intermediate process to the ultimate stage of manufacture of such textile products for sale direct or through an agent, wholesaler, or retailer.

"Fibre" includes wool, reprocessed wool, re-used wool, and wool made into any fibrous state.

(b) by deleting from the definition of "goods" the word "means" in line one of the definition and inserting in lieu thereof the words "includes any textile products and also"

(c) by inserting after the definition of "label" new definitions as follows:—

"Manufacturer" means, in relation to textile products, any person engaged in the process of spinning, weaving, knitting and felting of textile products for sale and includes contractors, jobbers and makers-up engaged in any preliminary or intermediate process to the ultimate stage of manufacture of such textile products for sale direct or through an agent, wholesaler, or retailer.

"Per centage" means in relation to the fibre contents of a textile product, per centage by weight.

“Retailer” means a person who sells goods retail.

“Reprocessed wool” means the resulting fibre when wool has been woven, knitted or felted into a textile product which without ever having been utilised in any way by the ultimate consumer, subsequently has been made into a fibrous state.

“Re-used wool” means the resulting fibre when wool or reprocessed wool has been spun, woven, knitted or felted into a textile product, which after having been utilised in any way by the ultimate consumer, subsequently has been made into a fibrous state.

(d) by inserting after the definition of “Sell” a new definition as follows:—

“Textile products” means woven, knitted or felted or other products manufactured from fibre, and includes such products whether in the piece or roll or in garments or other derivatives thereof and also tops and yarns.

The term does not include hats, or linings, interlinings or trimmings forming part of a garment, or any article which the Governor by regulation declares shall be excluded from the definition of “textile products.”

(e) by inserting after the definition of “Trade description” new definitions as follows:—

“Wholesaler” means, in relation to textile products, a person who receives textile products from a manufacturer or a distributor for sale either direct or through a retailer.

“Wool” means the natural fibre from any variety of domestic sheep or lamb (*ovis aries*) which has never been reclaimed from a textile product.

“Woollen goods” or “all wool” or “pure wool” means a textile product which contains ninety-five per centum of wool with five per centum of other material or substance for decoration.

5. A new heading, a subheading and new sections are inserted in the principal Act immediately after section four as follows:—

New heading
and new
sections.

PART II.—TRADE DESCRIPTIONS.

Division 1—Textile Products.

Trade
description
compulsory in
relation to
textile
products.

4A. (1) No person shall deliver for sale or sell any textile product unless there is applied thereto, conspicuously and legibly in such manner as may be prescribed, the full name and the complete address of the manufacturer and also a trade description of the product containing details of the constituent fibres comprising such product and also such other details as may be prescribed.

Provided that it shall not be necessary to state the name and address of the manufacturer where it is impracticable or inconvenient to do so and the regulations make provision to that effect.

(2) It shall not be necessary to affix the prescribed particulars relating to the manufacturer and to the textile product on or to the product itself but it shall be sufficient compliance with this section if such particulars are attached or applied to any covering, label, reel, placard or thing used in connection with the textile product provided the same is at all times in such proximity to such product and sufficiently displayed as to be clearly and easily referable to the product by any person proposing to purchase the product.

(3) Any person who in any respect contravenes this section shall be guilty of an offence.

Penalty—For a first offence, fifty pounds; or any subsequent offence two hundred pounds.

False trade
description.

4B. (1) Any person who applies to a textile product a trade description the particulars of which do not comply with the requirements of section four A of this Act or of the regulations or are in any respect false or incorrect shall be guilty of an offence.

Penalty—For a first offence, fifty pounds; or any subsequent offence two hundred pounds.

(2) It shall be a defence in any prosecution for an offence under this section—

- (a) where the defendant is the manufacturer—that any deviation not exceeding three per centum from the fibre weight of the entire textile product was due to a cause arising out of or in the course of the process of manufacture;

- (b) where the defendant is a distributor—that the particulars of fibre content contained in the trade description applied to the textile product were the full information available and furnished at the time and at the point of entry by the Customs of the imported product as provided by the Commerce (Trade Descriptions) Act, 1905-1933, of the Commonwealth and the regulations made thereunder;
- (c) where the defendant is a person other than the manufacturer or the distributor, that the particulars stated in the trade description are the same as those supplied to him for the purposes of such trade description by the manufacturer or the distributor from whom he received the product for sale.

4C. (1) Every manufacturer and every distributor shall when delivering textile products to a wholesaler or a retailer furnish to such wholesaler or retailer a numbered invoice which shall contain details of the constituent fibres comprising such textile products respectively as prescribed.

Invoices to be furnished.

(2) Any person who contravenes this section shall be guilty of an offence.

Penalty—Fifty pounds.

4D. (1) Every manufacturer and every distributor of textile products shall keep and maintain in writing in the English language for at least three years all records and specifications of textile products delivered or sold by him and invoiced as provided for in section four C of this Act.

Records to be kept.

(2) Any person who contravenes this section shall be guilty of an offence.

Penalty—Fifty pounds.

4E. (1) Every manufacturer and every distributor shall at all reasonable times give access to an inspector to inspect and check records required by this Act or the regulations to be kept by such manufacturer or distributor.

Access for inspector to inspect records.

(2) Any person who contravenes this section shall be guilty of an offence.

Penalty—Fifty pounds.

Amendment
of heading.

6. The heading "Trade Descriptions" where it appears immediately above section five of the principal Act is deleted, and a new heading is inserted in lieu thereof as follows:—"Division 2—Goods, other than textile products."

Insertion of
new heading.

7. A new heading is inserted in the principal Act immediately below section five as follows:—"Division 3—General."

8. A new section is inserted in the principal Act, as follows:—

Certain
expressions
in trade
descriptions
prohibited.

7A. A trade description shall not contain:—

- (a) The expressions "artificial wool," or "imitation wool," or "synthetic wool," or "substitute wool" in any circumstances or for any purposes or in relation to any goods;
- (b) Any other expression (except the expressions "reused wool" or "reprocessed wool" when appropriately used in connection with a textile product) which includes the word "wool" and is intended to be descriptive of the goods to which the trade description is applied or of a substance used in the manufacture of the said goods, when the goods are not a textile product, or the substance is not wool.

Amendment
of headings.

9. (1) The Heading "False Advertisements" where it appears in the principal Act immediately below section seven is deleted, and a new heading is inserted in lieu thereof as follows:—"Part III.—False Advertisements."

(2) The heading "Inspectors" where it appears in the principal Act immediately below section eight is deleted, and a new heading is inserted in lieu thereof as follows:—"Part IV.—Inspectors."

(3) The heading "Offences" where it appears in the principal Act immediately below section twelve is deleted, and a new heading is inserted in lieu thereof as follows:—"Part V.—Miscellaneous."

(4) The heading "Miscellaneous" where it appears in the principal Act immediately below section fourteen is deleted.

10. Section twenty-three of the principal Act is amended by adding at the end thereof the words “and particularly for the analysis of samples of goods taken under this Act and the extent to which certificates of analysis shall be *prima facie* evidence in proceedings under this Act of the facts therein stated.

Amendment
of s. 23.

11. The Schedule to the principal Act is repealed and a new Schedule is inserted in lieu thereof as follows:—

Amendment
of Schedule.
Repeal and
new Schedule.

THE SCHEDULE.

Sec. 2. (1) The following goods, where any such goods do not come within the definition of “textile products” as set out in this Act, that is to say:—

Bedding,
Blankets,
Rugs.

(2) Flour.

(3) Furniture.

(4) Motor bodies, including cabs, trays, platforms and coaches of every description as used on motor vehicles for private, passenger, or any commercial purpose.

12. The principal Act as amended by this Act may be cited as the Trade Descriptions and False Advertisements Act, 1936-1944.

Citation of
principal Act
as amended.