

Approved for Reprint 21st March, 1975.

WESTERN AUSTRALIA.

TRADING STAMP.

12° and 13° Geo. VI., No. LV.

No. 55 of 1948.¹

(As affected by Act No. 113 of 1965; and reprinted pursuant to the Amendments Incorporation Act, 1938.)

AN ACT to prohibit the use of Trading Stamps and Coupons, and for other purposes.

[Assented to 21st January, 1949.]

BE it enacted—

1. This Act may be cited as the *Trading Stamp Act, 1948*.
Short title.
Cf. Trading Stamp Act, 1924-1935, S.A.
2. The Trading-stamps Abolition Act, 1902 (1 and 2 Edw. VII., No. 30), is repealed.
Repeal of 1 & 2 Edw. VII., No. 30.
3. This Act shall come into operation on a day to be fixed by proclamation.¹
Commencement of Act.
4. In this Act, unless the context otherwise indicates—
“goods” includes goods, wares, and merchandise of all kinds, trading stamps, coupons and any tickets, checks, tokens, documents or orders directly or indirectly authorising or entitling any person to travel by any public

¹ Came into operation 2nd May, 1949, see G.G. 22/4/1949, p. 539.

or private railway, tramway, boat or conveyance, or to obtain meals or refreshments or to play or take part in any indoor or outdoor game or sport, or to be admitted into any theatre, concert hall, racecourse, cricket or football ground, circus, or place of public amusement or entertainment, or to obtain or receive any valuable consideration, or benefit or advantage of any kind whatsoever, whether of the same or a different kind as or from the foregoing;

“sale” includes the exchange, barter, hire, or other disposition of any property; and, without limiting the generality of this interpretation, also includes offering, or attempting to sell, or exposing for sale, or receiving for sale, or sending, forwarding, or delivering for sale; and the words “sell” and “sold” and other derivatives have correlative meanings;

“trader” includes any person, firm or company carrying on any business;

“trading stamp” includes any stamp, coupon, ticket, cover or portion of cover, wrapper, package, paper, document, means or device issued or supplied by any trading stamp company or issued or supplied by any trader upon or in connection with the sale or advertising of any goods, or with or in connection with any advertisement of any trader relating to any goods, or the sale of goods, which, or any part of which—

(a) authorises or entitles the holder thereof or person producing the same or any number or combination of the same to demand or receive, or purports to promise that the person will or may receive, from any trading stamp company (whether the company which issued or supplied the same or not), or from any person, firm, or company other than the trader, any money or goods; or

- (b) authorises or entitles the holder thereof or person producing the same or any number or combination of the same to demand and receive, or purports to promise that such person will or may receive, from the trader any money or goods free of cost or at a reduced or alleged reduced price;

“trading stamp company” means any person, firm, or company, who or which issues or supplies any trading stamp to any trader and either directly or by implication undertakes or promises to redeem the same, or that the same will be redeemed, by giving or delivering to the holder of or person producing the same or any number or combination of the same, any money or goods.

5. (1) No person shall, on the sale of or in connection with the sale, free distribution, or advertising of any goods—

- (a) issue or deliver with or about or concerning, relating to, or in connection with the goods, or any advertisement of any goods, any trading stamp to any person; or
- (b) issue or deliver with or about or concerning, relating to, or in connection with the goods or any of them, any writing promising, offering, or representing, or purporting to promise, offer, or represent, that the purchaser or any other person will be entitled to or will receive any refund, gift, allowance, reward, valuable consideration, benefit or advantage of any kind whatsoever dependent on the purchase of goods, or of any quantity thereof, or entitling or inviting the purchaser or any other person to participate in any competition for any refund, gift, allowance, reward, valuable consideration, benefit, or advantage of any kind whatsoever:

Use of trading stamps prohibited. Amended by No. 113 of 1965, s. 8. Cf. S.A. Act, s. 5.

Trading Stamp.

Provided that this subsection shall not prevent a trader from paying, or from promising, offering, or representing that the trader will pay, to any person who purchases goods from the trader a discount payable in cash and not otherwise calculated on the price paid or payable by the purchaser to the trader for goods so purchased.

(2) No person shall advertise any trading stamp in any newspaper, leaflet, handbill, or other printed or written matter, or on any hoarding or sign, or in any other manner howsoever, or print, publish, or exhibit, or cause to be printed, published or exhibited, any advertisement concerning or in any manner relating to any trading stamp.

(3) No person shall directly or indirectly give or deliver any money or goods on presentation or production of or in exchange for any trading stamp.

(4) Any person who contravenes the provisions of this section commits an offence.

Penalty—One hundred dollars.

(5) For the purposes of this section—

(a) the person on whose behalf any sale or free distribution of goods is made by an agent, assistant, or apprentice shall be deemed to be the person who effected the sale or distribution; and the agent shall also be liable to the same penalty as the person on whose behalf the sale or distribution was made;

(b) any agent or representative, in the State, of any person not resident in the State, shall be subject to the same liabilities under this Act, including any penalty, as that to which his principal would be subject, if resident in the State.

(6) Nothing herein contained shall preclude any seller of goods from issuing therewith or in connection therewith a statement that, in the event of

insufficient quantity or defective quality, a total or partial refund of the purchase money may or will be allowed.

6. (1) No person shall, in the State, directly or indirectly—

(a) give or deliver; or

(b) either in writing or otherwise howsoever promise, offer, represent, or advertise, or purport to promise, offer, represent, or advertise, that he will give or deliver (whether the actual giving or delivering is to be done or made in the State or elsewhere),

Prohibition of certain transactions in connection with the sale and advertisement of goods.
Amended by No. 113 of 1965, s. 8.
Cr. S.A. Act, s. 5a.

any money, goods, reward, benefit, valuable consideration, or advantage whatsoever in exchange for, or in redemption of, any article or thing described in subsection (4) of this section, or any number or combination of any such articles or things.

(2) No person shall, directly or indirectly, either in writing or otherwise howsoever, invite or encourage any other person to, or suggest that any other person should—

(a) do any act or thing forbidden by subsection (1) of this section; or

(b) tender, or despatch, or offer to tender, or despatch in or from the State any article or thing described in subsection (4) of this section, or any number or combination of any of such articles or things in exchange for any money, goods, reward, benefit, valuable consideration, or advantage whatsoever, whether the actual exchange shall be effected, or become effective, in the State or elsewhere.

(3) No person shall in or from the State tender, or despatch, or offer to tender or despatch, any article or thing described in subsection (4) of this

section, or any number or combination of any of those articles or things in exchange for any money, goods, reward, benefit, or valuable consideration whatsoever, whether the actual exchange shall be effected, or is to become effective in the State or elsewhere.

(4) The articles or things referred to in subsections (1), (2) and (3) of this section are any of the following, or any portion or portions respectively, of any of the following—

any stamp, coupon, ticket, cover, wrapper, package, paper, photograph, document, means or device,

which has been, is, or is intended to be, issued or delivered with, about, concerning, relating to, or in connection with any goods which have been, are being, or are intended to be, sold or distributed in the State, whether by the person—

- (a) giving or delivering as mentioned in subparagraph (a) of subsection (1) of this section; or
- (b) promising, offering, representing, or advertising, or purporting to promise, offer, represent or advertise, as mentioned in subparagraph (b) of subsection (1) of this section; or
- (c) inviting, encouraging, or suggesting as mentioned in subsection (2) of this section; or
- (d) any other person whomsoever.

(5) No trader shall sell or distribute any goods—

- (a) if there is issued or delivered with, about, concerning or relating to the goods, any of the articles or things mentioned in subsection (4) of this section; and
- (b) if, in respect of any such article or thing, or any number or combination thereof, any of the offences mentioned in subsections (1), (2) or (3) of this section is, or are being, or will, or may be committed:

Provided that it will be a defence to any charge under this subsection if the defendant proves that he did not know, and that by the exercise of reasonable diligence he could not have become aware of, the facts constituting any offence under subsections (1), (2) or (3) of this section.

(6) No person shall, directly or indirectly print, exhibit, or publish (whether in writing or orally, or otherwise howsoever) any advertisement concerning, relating to, or connected with anything which is made unlawful by any of the preceding subsections of this section:

Provided that it shall be a defence to any charge under this subsection if the defendant proves that he did not know and that by the exercise of reasonable diligence, he could not have become aware that the advertisement concerned or related to anything so made unlawful.

(7) (a) No prosecution for an offence against this section shall be instituted except with the consent of the Attorney General for the time being, signified by a written document under his hand.

(b) A document purporting to be a consent of such Attorney General to a prosecution under this section shall be deemed to be a genuine document giving such consent unless the contrary is proved.

(8) On the hearing of any complaint of an offence against the provisions of this section any advertisement, letter, circular, memorandum, or other writing which appears to the court to be relevant to the complaint, and to have been issued or delivered by the person whose name appears thereon or by any other person, may be given in evidence without formal proof of the issue or delivery thereof, or of the authentication by the person whose name it bears; and the same shall, until the contrary is proved, be proof that any promise, offer, represen-

tation, notification, invitation, encouragement, or suggestion (or what purports so to be) therein contained—

- (a) was actually made;
- (b) was in force at the date on which the alleged offence was committed; and
- (c) that the same was made by the person whose name (if any) appears thereon as making or authenticating the document.

(9) Where an offence under this section has been committed by a company, the company may be charged in addition to any of the officers of the company responsible for the commission of such offence; and where an offence under this section has been committed by a firm or partnership, the members of the firm or partners may be jointly charged.

(10) Any person who contravenes any of the provisions of this section shall be liable to a penalty of two hundred dollars for each offence.

A certain allegation to be *prima facie* evidence.

7. The allegation in any complaint for an offence against the provisions of this Act that—

- (a) any stamp, coupon, ticket, cover, or portion of cover, wrapper, package, paper, document, means or device is a trading stamp, shall be *prima facie* evidence of the fact that it is a trading stamp within the meaning of this Act;
- (b) a particular person, firm, or company therein named is a trading stamp company shall be *prima facie* evidence that the person, firm or company is a trading stamp company within the meaning of this Act.