



# Trade Descriptions Act 1968

## 1968 CHAPTER 29

### *Provisions as to offences*

#### **18 Penalty for offences**

A person guilty of an offence under this Act for which no other penalty is specified shall be liable—

- (a) on summary conviction, to a fine not exceeding four hundred pounds ; and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

#### **19 Time limit for prosecutions**

- (1) No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.
- (2) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, a magistrates' court may try an information for an offence under this Act if the information was laid at any time within twelve months from the commission of the offence.
- (3) Notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this section may be commenced at any time within twelve months from the time when the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (4) Subsections (2) and (3) of this section do not apply where—
  - (a) the offence was committed by the making of an oral statement; or
  - (b) the offence was one of supplying goods to which a false trade description is applied, and the trade description was applied by an oral statement; or

- (c) the offence was one where a false trade description is deemed to have been applied to goods by virtue of section 4(3) of this Act and the goods were supplied in pursuance of an oral request.

## **20 Offences by corporations**

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In this section "director", in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

## **21 Accessories to offences committed abroad**

- (1) Any person who, in the United Kingdom, assists in or induces the commission in any other country of an act in respect of goods which, if the act were committed in the United Kingdom, would be an offence under section 1 of this Act shall be guilty of an offence, except as provided by subsection (2) of this section, but only if either—
  - (a) the false trade description concerned is an indication (or anything likely to be taken as an indication) that the goods or any part thereof were manufactured, produced, processed or reconditioned in the United Kingdom; or
  - (b) the false trade description concerned—
    - (i) consists of or comprises an expression (or anything likely to be taken as an expression) to which a meaning is assigned by an order made by virtue of section 7(b) of this Act, and
    - (ii) where that meaning is so assigned only in circumstances specified in the order, the trade description is used in those circumstances.
- (2) A person shall not be guilty of an offence under subsection (1) of this section if, by virtue of section 32 of this Act, the act, though committed in the United Kingdom, would not be an offence under section 1 of this Act had the goods been intended for despatch to the other country.
- (3) Any person who, in the United Kingdom, assists in or induces the commission outside the United Kingdom of an act which, if committed in the United Kingdom, would be an offence under section 12 of this Act shall be guilty of an offence.

## **22 Restrictions on institution of proceedings and admission of evidence**

- (1) Where any act or omission constitutes both an offence under this Act and an offence under any provision contained in or having effect by virtue of Part IV of the Weights and Measures Act 1963 or Part IV of the Weights and Measures Act (Northern Ireland) 1967—
  - (a) proceedings for the offence shall not be instituted under this Act, except by virtue of section 23 thereof, without the service of such a notice as is required by subsection (2) of section 51 of the said Act of 1963 or, as the case may be,

subsection (2) of section 33 of the said Act of 1967, nor after the expiration of the period mentioned in paragraph (c) of that subsection; and

- (b) subsections (2), (3) and (5) to (7) of section 26 of the said Act of 1963 or, as the case may be, of section 20 of the said Act of 1967, shall, with the necessary modifications, apply as if the offence under this Act were an offence under Part IV of that Act or any instrument made thereunder.

- (2) Where any act or omission constitutes both an offence under this Act and an offence under the food and drugs laws, evidence on behalf of the prosecution concerning any sample procured for analysis shall not be admissible in proceedings for the offence under this Act unless the relevant provisions of those laws have been complied with.

In this subsection " the food and drugs laws" means the Food and Drugs Act 1955, the Food and Drugs (Scotland) Act 1956, the Food and Drugs Act (Northern Ireland) 1958 and any instrument made thereunder and " the relevant provisions" means—

- (a) in relation to the said Act of 1955, sections 93 and 97 and Part I of Schedule 7;
- (b) in relation to the said Act of 1956, sections 30 and 33 ; and
- (c) in relation to the said Act of 1958, sections 35 and 38 ;

or any provision replacing any of the said provisions by virtue of section 123 of the said Act of 1955, section 56 of the said Act of 1956, or section 68 of the said Act of 1958.

- (3) The Board of Trade may by order provide that in proceedings for an offence under this Act in relation to such goods as may be specified in the order (other than proceedings for an offence falling within the preceding provisions of this section) evidence on behalf of the prosecution concerning any sample procured for analysis shall not be admissible unless the sample has been dealt with in such manner as may be specified in the order.

## **23 Offences due to fault of other person**

Where the commission by any person of an offence under this Act is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.