



Medicines Act 1968

1968 CHAPTER 67

PART VI

PROMOTION OF SALES OF MEDICINAL PRODUCTS

93 False or misleading advertisements and representations.

- (1) Subject to the following provisions of this section, any person who, being a commercially interested party, or at the request or with the consent of a commercially interested party, issues, or causes another person to issue, a false or misleading advertisement relating to medicinal products of any description shall be guilty of an offence.
- (2) Where a licence under Part II of this Act is in force which is applicable to medicinal products of a particular description, and, in accordance with the provisions of the licence, the purposes for which medicinal products of that description may be recommended to be used are limited to those specified in the licence, then, subject to the following provisions of this section, any person who, being a commercially interested party, or at the request or with the consent of a commercially interested party, issues, or causes another person to issue, an advertisement relating to medicinal products of that description which consists of or includes unauthorised recommendations shall be guilty of an offence.
- (3) Subject to the following provisions of this section, any person who in the course of a relevant business carried on by him, or while acting on behalf of a person carrying on such a business, makes a false or misleading representation relating to a medicinal product in connection with the sale, or offer for sale, of that product shall be guilty of an offence; and any person who, in the course of such a business or while acting on behalf of a person carrying on such a business, makes a false or misleading representation relating to medicinal products of a particular description—
 - (a) to a practitioner for the purpose of inducing him to prescribe or supply medicinal products of that description, or
 - (b) to a patient or client of a practitioner for the purpose of inducing him to request the practitioner to prescribe medicinal products of that description, or

Status: Point in time view as at 31/05/2005. This version of this provision has been superseded.

Changes to legislation: Medicines Act 1968, Section 93 is up to date with all changes known to be in force on or before 30 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (c) to a person for the purpose of inducing him to purchase medicinal products of that description from a person selling them by retail,
shall be guilty of an offence.
- (4) Where in the circumstances specified in subsection (2) of this section any person, in the course of a relevant business carried on by him, or while acting on behalf of a person carrying on such a business,—
- (a) in connection with the sale, or offer for sale, of a medicinal product of the description in question, makes a representation relating to the product which consists of or includes unauthorised recommendations, or
 - (b) for any such purpose as is specified in paragraphs (a) to (c) of subsection (3) of this section makes a representation relating to medicinal products of that description which consists of or includes unauthorised recommendations,
- that person, subject to the following provisions of this section, shall be guilty of an offence.
- (5) Where a person is charged with an offence under this section, it shall be a defence for him to prove—
- (a) where the offence charged is under subsection (1) or subsection (3) of this section, that he did not know, and could not with reasonable diligence have discovered, that the advertisement or representation was false or misleading;
 - (b) where the offence charged is under subsection (2) or subsection (4) of this section, that he did not know, and could not with reasonable diligence have discovered, that the recommendations made by the advertisement or representation were unauthorised recommendations.
- (6) Without prejudice to the last preceding subsection, where a person is charged with an offence under this section in respect of the issue of an advertisement, it shall be a defence for him to prove that he is a person whose business it is to issue or arrange for the issue of advertisements, and that either—
- (a) he received the advertisement for issue in the ordinary course of business and issued it, or arranged for it to be issued, either unaltered or without any alteration except in respect of lettering or lay-out, or
 - (b) not being a commercially interested party, he received from a commercially interested party the information on which the advertisement was based and in the ordinary course of business prepared the advertisement in accordance with that information for issue at the request of that party,
- and (in either case) that he did not know and had no reason to suspect that the issue of the advertisement would amount to an offence under this section.
- (7) For the purposes of this section an advertisement (whether it contains an accurate statement of the composition of medicinal products of the description in question or not) shall be taken to be false or misleading if (but only if)—
- (a) it falsely describes the description of medicinal products to which it relates, or
 - (b) it is likely to mislead as to the nature or quality of medicinal products of that description or as to their uses or effects,
- and any reference in this section to a false or misleading representation shall be construed in a corresponding way.
- (8) The preceding provisions of this section shall have effect subject to section 121 of this Act.

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- (9) Any person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding £400;
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.
- (10) In this section “unauthorised recommendations”, in relation to the circumstances specified in subsection (2) of this section, means recommendations whereby medicinal products of a description to which the licence in question is applicable are recommended to be used for purposes other than those specified in the licence.

Modifications etc. (not altering text)

- C1** S. 93 extended by [S.I. 1984/187](#), [art. 2](#)
S. 93 applied (1.1.1995) by [S.I. 1994/3142](#), [reg. 18\(2\)](#)
S.93 extended (with modifications) (14.2.1994) by [S.I. 1994/105](#), [reg. 19](#), [Sch.4](#)
S. 93 applied (31.3.1997) by [S.I. 1997/322](#), [reg. 34](#), [Sch.5](#)

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