



Trade Descriptions Act 1968

1968 CHAPTER 29

Prohibition of false trade descriptions

1 Prohibition of false trade descriptions.

- (1) Any person who, in the course of a trade or business,—
- (a) applies a false trade description to any goods; or
 - (b) supplies or offers to supply any goods to which a false trade description is applied;
- shall, subject to the provisions of this Act, be guilty of an offence.
- (2) Sections 2 to 6 of this Act shall have effect for the purposes of this section and for the interpretation of expressions used in this section, wherever they occur in this Act.

2 Trade description.

- (1) A trade description is an indication, direct or indirect, and by whatever means given, of any of the following matters with respect to any goods or parts of goods, that is to say—
- (a) quantity, size or gauge;
 - (b) method of manufacture, production, processing or reconditioning;
 - (c) composition;
 - (d) fitness for purpose, strength, performance, behaviour or accuracy;
 - (e) any physical characteristics not included in the preceding paragraphs;
 - (f) testing by any person and results thereof;
 - (g) approval by any person or conformity with a type approved by any person;
 - (h) place or date of manufacture, production, processing or reconditioning;
 - (i) person by whom manufactured, produced, processed or reconditioned;
 - (j) other history, including previous ownership or use.
- (2) The matters specified in subsection (1) of this section shall be taken—
- (a) in relation to any animal, to include sex, breed or cross, fertility and soundness;

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- (b) in relation to any semen, to include the identity and characteristics of the animal from which it was taken and measure of dilution.
- (3) In this section “quantity” includes length, width, height, area, volume, capacity, weight and number.
- (4) Notwithstanding anything in the preceding provisions of this section, the following shall be deemed not to be trade descriptions, that is to say, any description or mark applied in pursuance of—
- (a) ^{F1}
- (b) section 2 of the ^{M1}Agricultural Produce (Grading and Marking) Act 1928 (as amended by the ^{M2}Agricultural Produce (Grading and Marking) Amendment Act 1931) or any corresponding enactment of the Parliament of Northern Ireland;
- (c) the ^{M3}Plant Varieties and Seeds Act 1964;
- (d) the ^{M4}Agriculture and Horticulture Act 1964 [^{F2}or any Community grading rules within the meaning of Part III of that Act];
- (e) the ^{M5}Seeds Act (Northern Ireland) 1965;
- (f) the ^{M6}Horticulture Act (Northern Ireland) 1966;
- [^{F3}(g) The Consumer Protection Act 1987;]
- [^{F4}(h) the Plant Varieties Act 1997;]
- [^{F5}any statement made in respect of, or mark applied to, any material in pursuance of Part IV of the ^{M7}Agriculture Act 1970, any name or expression to which a meaning has been assigned under section 70 of that Act when applied to any material in the circumstances specified in that section] . . . ^{F6} any mark prescribed by a system of classification compiled under section 5 of the ^{M8}Agriculture Act 1967 [^{F7}and any designation, mark or description applied in pursuance of a scheme brought into force under section 6(1) or an order made under section 25(1) of the Agriculture Act 1970]
- (5) Notwithstanding anything in the preceding provisions of this section,
- [^{F8}(a) where provision is made under [^{F9}the Food Safety Act 1990] or the [^{F10}Food Safety (Northern Ireland) Order 1991][^{F11}or the Consumer Protection Act 1987] prohibiting the application of a description except to goods in the case of which the requirements specified in that provision are complied with, that description, when applied to such goods, shall be deemed not to be a trade description.
- [^{F12}(b) where by virtue of any provision made under Part V of the Medicines Act 1968 (or made under any provisions of the said Part V as applied by an order made under section 104 or section 105 of that Act) anything which, in accordance with this Act, constitutes the application of a trade description to goods is subject to any requirements or restrictions imposed by that provision, any particular description specified in that provision, when applied to goods in circumstances to which those requirements or restrictions are applicable, shall be deemed not to be a trade description.]

Textual Amendments

F1 S. 2(4)(a) repealed by [European Communities Act 1972 \(c. 68\)](#), s. 4, **Sch. 3 Pt. III**

F2 Words inserted by [European Communities Act 1972 \(c. 68\)](#), s. 4, **Sch. 4 para. 4(2)**

F3 S. 2(4)(g) inserted by [Consumer Safety Act 1978 \(c. 38\)](#), s. 7(8) and as substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(1), **Sch. 4 para. 2(1)(a)**

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- F4** S. 2(4)(h) inserted (8.5.1998) by 1997 c. 66, s. 51(4); S.I. 1998/1028, art.2.
- F5** Words substituted (1.1.1974) by Agriculture Act 1970 (c. 40), s. 87(3)
- F6** Word repealed by Agriculture Act 1970 (c. 40), s. 6(4), Sch. 5 Pt. V
- F7** Words added by Agriculture Act 1970 (c. 40), s. 6(4)
- F8** Word "(a)" inserted by Medicines Act 1968 (c. 67, SIF 84), s. 135(1), Sch. 5 para. 16
- F9** Words "the Food Safety Act 1990" substituted (E.W.S.) by Food Safety Act 1990 (c. 16, SIF 53:1, 2), s. 59(1), Sch. 3 para. 6
- F10** Words in s. 2(5)(a) substituted (N.I.) (21.5.1991) by S.I. 1991/762 (N.I. 7), art. 51(1), Sch. 2 para.8; S.R. 1991/175, art. 2(1)
- F11** Words substituted by Consumer Protection Act 1987 (c. 43, SIF 109:1), s. 48(1), Sch. 4 para. 2(1)(b) for words inserted by Consumer Safety Act 1978 (c.38, SIF 109:1), s. 7(8)
- F12** Para. (b) inserted by Medicines Act 1968 (c. 67, SIF 84), s. 135(1), Sch. 5 para. 16

Modifications etc. (not altering text)

- C1** S. 2(5) amended (14.2.1989) by Medicines Act 1968 (c. 67), s. 135(1), Sch. 5 para. 16

Marginal Citations

- M1** 1928 c. 19.
- M2** 1931 c. 40.
- M3** 1964 c. 14.
- M4** 1964 c. 28.
- M5** 1965 c. 22 (N.I.)
- M6** 1966 c. 15 (N.I.)
- M7** 1970 c. 40
- M8** 1967 c. 22.

3 False trade description.

- (1) A false trade description is a trade description which is false to a material degree.
- (2) A trade description which, though not false, is misleading, that is to say, likely to be taken for such an indication of any of the matters specified in section 2 of this Act as would be false to a material degree, shall be deemed to be a false trade description.
- (3) Anything which, though not a trade description, is likely to be taken for an indication of any of those matters and, as such an indication, would be false to a material degree, shall be deemed to be a false trade description.
- (4) A false indication, or anything likely to be taken as an indication which would be false, that any goods comply with a standard specified or recognised by any person or implied by the approval of any person shall be deemed to be a false trade description, if there is no such person or no standard so specified, recognised or implied.

Modifications etc. (not altering text)

- C2** S. 3(1) amended (1.1.1975) by Hallmarking Act 1973 (c. 43), s. 1(4)

4 Applying a trade description to goods.

- (1) A person applies a trade description to goods if he—
 - (a) affixes or annexes it to or in any manner marks it on or incorporates it with—
 - (i) the goods themselves, or

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- (ii) anything in, on or with which the goods are supplied; or
 - (b) places the goods in, on or with anything which the trade description has been affixed or annexed to, marked on or incorporated with, or places any such thing with the goods; or
 - (c) uses the trade description in any manner likely to be taken as referring to the goods.
- (2) An oral statement may amount to the use of a trade description.
- (3) Where goods are supplied in pursuance of a request in which a trade description is used and the circumstances are such as to make it reasonable to infer that the goods are supplied as goods corresponding to that trade description, the person supplying the goods shall be deemed to have applied that trade description to the goods.

Modifications etc. (not altering text)

C3 S. 4 extended (1.1.1975) by [Hallmarking Act 1973 \(c. 43\), s. 1\(7\) \(b\)](#)

5 Trade descriptions used in advertisements.

- (1) The following provisions of this section shall have effect where in an advertisement a trade description is used in relation to any class of goods.
- (2) The trade description shall be taken as referring to all goods of the class, whether or not in existence at the time the advertisement is published—
- (a) for the purpose of determining whether an offence has been committed under paragraph (a) of section 1(1) of this Act; and
 - (b) where goods of the class are supplied or offered to be supplied by a person publishing or displaying the advertisement, also for the purpose of determining whether an offence has been committed under paragraph (b) of the said section 1(1).
- (3) In determining for the purposes of this section whether any goods are of a class to which a trade description used in an advertisement relates regard shall be had not only to the form and content of the advertisement but also to the time, place, manner and frequency of its publication and all other matters making it likely or unlikely that a person to whom the goods are supplied would think of the goods as belonging to the class in relation to which the trade description is used in the advertisement.

Modifications etc. (not altering text)

C4 S. 5(3) applied (1.1.1975) by [Hallmarking Act 1973 \(c. 43\), s. 1\(8\)](#)

6 Offer to supply.

A person exposing goods for supply or having goods in his possession for supply shall be deemed to offer to supply them.

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