

3 ELIZ. II. No. 14, 1954. *Trade Descriptions (Textile Products) Act.*

HEALTH.

An Act Relating to Trade Descriptions of Textile Products, and other incidental purposes.

3 ELIZ. II.
NO. 14.
THE TRADE
DESCRIPTIONS
(TEXTILE
PRODUCTS)
ACT OF
1954.

[ASSENTED TO 28TH APRIL, 1954.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) This Act may be cited as "*The Trade Descriptions (Textile Products) Act of 1954.*" Short title.

(2.) This Act shall be read with *"*The Health Acts, 1937 to 1949.*" Construction of Act.

(3.) This Act shall come into operation on a date to be fixed by the Governor in Council by Proclamation published in the *Gazette*. Commencement of Act.

2. This Act shall be read and construed so as not to exceed the legislative power of the State to the intent that, where any enactment hereof would but for this section have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power. Constitutionality of this Act.

3. †"*The Trade Descriptions (Textile Products) Acts, 1944 to 1947,*" are hereby repealed. Repeal.

4. (1.) In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say:—

"Advertisement"—With reference to any textile products, any method of advertising or conveying information or making any claim with respect to the textile products, whether orally or by writing or pictorially or otherwise, including any circular, catalogue, leaflet, pamphlet or other document, and any public announcement made orally or by writing or by means of producing or transmitting light or sound: And the term "advertising matter" when used with reference to any textile products includes any advertisement and any matter whatsoever containing or in the nature of an advertisement; Advertisement. Advertising matter.

* 1 G. 6 No. 31 and amending Acts.

† 9 G. 6 No. 1 and amending Act.

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- Fibre.** “Fibre”—Means wool, hair, silk, cotton, linen, and any other fibrous material, whether natural or artificial;
- Person.** “Person”—Includes a body corporate;
- Prescribed.** “Prescribed”—Prescribed by this Act or by regulations under **“The Health Acts, 1937 to 1949”*;
- Sell.** “Sell”—Includes offer or attempt to sell, supply or receive for sale, have in possession for sale, exhibit or expose for sale, send or forward or deliver for sale or on sale, or cause or suffer or allow to be sold, offered for sale, exhibited or exposed for sale, or sent or forwarded or delivered for sale or on sale;
- Textile product.** “Textile product”—Means—
- (a) Woven, knitted or felted materials manufactured from fibre;
 - (b) Tops, yarns, threads and lace; and
 - (c) Articles of wearing apparel manufactured in whole or in part of such materials but not including linings, interlinings or trimmings forming part of such articles;
- Wool.** “Wool”—Means the natural fibre from the fleece of any variety of domestic sheep or lamb.
- References to other Acts.** (2.) Any reference in this Act to any other Act shall be taken to include a reference to any later Act amending or in substitution for that other Act.
- Duty to label textile products.** 5. A person shall not sell, or expose or have in his possession for any purpose of advertisement or trade, any textile product unless a trade description complying with section six of this Act is applied in accordance with that section to that product.
- Requirements as to trade description.** 6. (1.) The trade description required by section five of this Act to be applied to any textile product shall comply in every respect with the following requirements:—
- (a) It shall be written in English in clearly legible characters;
 - (b) It shall be attached to the product in the prescribed manner, or if none is prescribed, it shall be printed or stamped on, or woven into, the product, or securely attached to the product;

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- (c) It shall be conspicuously placed so as to be clearly visible and shall be applied to the prescribed part or parts (if any) of the product;
- (d) If the product contains ninety-five per centum or more by weight of wool, it shall include the words " Pure Wool " ;
- (e) If the product contains less than ninety-five per centum by weight of wool, it shall not include the words " Pure Wool " ;
- (f) If the product contains less than ninety-five per centum by weight of wool but not less than five per centum by weight of wool, it shall include a statement specifying—
 - (i.) The percentage by weight of wool which is contained in the product ; and
 - (ii.) The other fibres contained in the product in order of dominance by weight.

Where the percentage by weight of wool is greater than the percentage by weight of any other fibre, it shall state the percentage by weight of wool first, otherwise last ;

- (g) If the product contains less than five per centum by weight of wool, it shall state the fibres other than wool in order of dominance by weight followed by the words " less than five per centum wool " ;
- (h) If the product contains no wool, it shall include a statement specifying the fibre contained in the product, or if the product contains more than one fibre, the fibres in order of dominance by weight ;
- (i) If the product contains loading or weighting substances other than ordinary dressing, it shall include the word " Loaded " or the word " Weighted " ;
- (j) If the product contains paper, it shall include a statement that the product contains paper ;
- (k) Additionally it shall include such other particulars, if any, as may be prescribed.

(2.) It shall be deemed to be sufficient compliance with paragraphs (b) and (c) of subsection one of this section if a trade description is applied in the prescribed manner to any prescribed covering, label, reel or thing used in connection with a textile product.

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(3.) Where a textile product contains less than five per centum by weight of any fibre other than wool or paper, the description under this section need not mention that fibre.

(4.) In this section the term "ordinary dressing" means a dressing which—

- (a) Is used to meet legitimate trade requirements ; and
- (b) Does not contain anything in the nature of an adulteration ; and
- (c) Does not contain anything used for the purpose of deceiving as to the quality, substance or nature of the textile product.

False trade descriptions, &c., prohibited.

7. (1.) A person shall not—

- (a) Apply to any textile product for sale or to any portion thereof a trade description which, in relation to the textile product or portion thereof, does not comply in every respect with the requirements of section six of this Act ; or
- (b) Sell any textile product to which or to any portion of which there is applied a trade description which, in relation to the textile product or portion thereof, does not comply in every respect with the requirements of section six of this Act ; or
- (c) Use howsoever in relation to the sale, or the advertisement for sale, or for any purpose of or connected with the sale or advertisement for sale, of any textile product any advertising matter containing any statement or description which, in relation to the trade description applicable to that textile product or any portion thereof in compliance in every respect with the requirements of section six of this Act, is false or misleading.

(2.) For the purposes of paragraphs (a) and (b) of subsection one of this section a trade description shall be deemed to be applied to a textile product if—

- (a) It is applied to the textile product itself ; or
- (b) It is applied to any covering, label, reel or thing used in connection with the textile product ; or

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- (c) It is used in any manner likely to lead to the belief that it describes or designates the textile product.

8. (1.) A person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence against this Act and liable— Offences
and
penalties.

- (a) For a first such offence, to a penalty not exceeding fifty pounds; and
- (b) For a second or subsequent such offence (whether against the same or a different provision of this Act and whether in respect of the same or a different textile product) to a penalty not exceeding two hundred pounds or to imprisonment for a term not exceeding six months or, if the offender is a corporation, to a penalty not exceeding five hundred pounds.

(2.) Offences against this Act may be prosecuted in a summary way under **“The Justices Acts, 1886 to 1949.”*

(3.) Upon conviction for a second or subsequent offence against this Act all textile products and other things by means of or in relation to which the offence was committed shall be deemed to be forfeited to Her Majesty and shall be destroyed or otherwise dealt with according as directed by the Director-General of Health and Medical Services.

9. (1.) In any prosecution for contravening or failing to comply with any of the provisions of this Act, if the defendant proves that the textile product with respect to which the offence was committed was manufactured in or imported into the State of Queensland before the commencement of this Act and that the textile product was held by him *bonâ fide* and without any fraudulent intention, he shall be discharged from the prosecution but shall be liable to pay the costs incurred on behalf of the prosecution unless he has given reasonable notice to the complainant that he will rely on such defence. Defences.

(2.) In proceedings for an offence against this Act in respect of any textile product it shall be a defence that at the time when the offence is alleged to have been committed the product bore the same description as had been applied to it when the defendant acquired it and that that description appeared to comply with this Act and had not been altered in any way by the defendant.

Savings.

10. (1.) This Act shall not exempt any person from any action, suit, or other proceeding which might but for the provisions of this Act be brought against him.

(2.) Nothing in this Act shall entitle any person to refuse to make a complete discovery or to refuse to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this Act.

(3.) Nothing in this Act shall be construed so as to render liable to any prosecution or punishment any employee of an employer resident in Queensland who *bonâ fide* acts in obedience to the instructions of such employer and on demand made by or on behalf of the complainant or person aggrieved has identified his employer fully and correctly.

This Act to be read with 1 Geo. VI. No. 31, and power to make regulations accordingly.

11. This Act shall be read with, but so as not to derogate from, such of the provisions of **"The Health Acts, 1937 to 1949,"* and the regulations thereunder as apply to and with respect to textile products and without limit to the generality of the foregoing provisions of this section—

- (a) The power under **"The Health Acts, 1937 to 1949,"* to make from time to time regulations shall include power to make from time to time regulations prescribing or providing for all or any matters or purposes, whether general or to meet particular cases, that may be necessary or convenient for the administration of this Act, or that may be necessary or expedient to carry out the objects and purposes of this Act, and in particular, and without limit to the generality of such power, for and with respect to—
- (i.) The form and the manner in which the trade description shall be applied to textile products or to specified portions thereof (or, if prescribed, to any covering label, reel or thing used in connection therewith);
- (ii.) Requiring the trade description to be applied to textile products or to any portion thereof under this Act to contain such particulars as are prescribed relating

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- to the quality, purity, or weight of the textile products or portions thereof or the materials of which the textile products or portions thereof are composed ;
- (iii.) Prohibiting the application to textile products or any portion thereof or the use in connection with textile products or any portion thereof of any descriptive matter (and whether additionally to the particulars required to be contained in the trade description to be applied thereto under this Act or separately from that trade description) other than as prescribed to be contained in the trade description to be applied to those textile products or that portion thereof under this Act ;
- (iv.) Declaring textile products which are to be exempt from the provisions of this Act ; and
- (v.) Prescribing that any regulation or provision of any regulation shall be limited in its application to specified classes of textile products or that the same shall apply to and with respect to all classes of textile products other than those specified : Provided that unless otherwise prescribed every regulation shall be deemed to apply to and with respect to all classes of textile products ; and
- (b) In and for purposes of or connected with the administration of this Act, the Director-General of Health and Medical Services, inspectors appointed under **"The Health Acts, 1937 to 1949,"* and members of the Police Force shall have and may exercise the functions, powers and authorities conferred upon them respectively by and under Parts IV. and V. of those lastmentioned Acts :

Provided that where an act or omission is an offence against both this Act and **"The Health Acts, 1937 to 1949,"* or a regulation thereunder, the offender may be prosecuted under either this Act or **"The Health Acts, 1937 to 1949,"* but so that he shall not be twice punished for that offence.

* 1 G. 6 No. 31 and amending Acts.