



ANNO VICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1972

No. 105 of 1972

An Act to amend the Unfair Advertising Act, 1970-1971.

[Assented to 16th November, 1972]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Unfair Advertising Act Amendment Act, 1972". Short titles.

(2) The Unfair Advertising Act, 1970-1971, as amended by this Act, may be cited as the "Unfair Advertising Act, 1970-1972".

(3) The Unfair Advertising Act, 1970-1971, is hereinafter referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 2 of the principal Act is amended—

(a) by striking out the definition of "publish";

and

(b) by inserting after the present contents thereof, as amended by this section, (which are hereby designated subsection (1) thereof) the following subsections:—

Amendment of principal Act, s. 2—
Interpretation.

(2) For the purposes of this Act an advertisement shall be deemed to be published when it is placed before the public or any member of the public by any means whatsoever.

(3) For the purposes of this Act, a statement or representation contained in an advertisement is an unfair statement if—

(a) the statement specifies an amount payable as portion of the consideration for goods, services or land offered for sale in the advertisement;

and

(b) the advertisement does not contain a statement of the total consideration for which the goods, services or land may be obtained for cash.

Amendment of principal Act, s. 3—
Prohibition of misleading advertising.

4. Section 3 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “or services” twice occurring and inserting in lieu thereof in each case the passage “, services or land”;

(b) by striking out subsection (2) and inserting in lieu thereof the following subsection:—

(2) It shall be a defence to proceedings in respect of an offence that is a contravention of subsection (1) of this section for the defendant to prove that—

(a) he took all reasonable precautions to ensure that the advertisement complained of did not contain an unfair statement;

and

(b) he believed on reasonable grounds that the advertisement did not contain an unfair statement.;

and

(c) by striking out subsections (4), (5) and (6).

Enactment of ss. 3a, 3b and 3c of principal Act—

Liability of advertiser when advertisement is for purposes of business of advertiser.

5. The following sections are enacted and inserted in the principal Act immediately after section 3 thereof:—

3a. (1) Where an advertisement of any kind relating to goods, services or land or to the extension of credit for any transaction relating to goods, services or land is published for the purposes of the business of an advertiser and that advertisement contains an unfair statement that advertiser shall be guilty of an offence and shall be liable to a penalty not exceeding one thousand dollars.

(2) In proceedings in respect of an offence that is a contravention of subsection (1) of this section an allegation in the complaint—

(a) that a person is the advertiser in relation to an advertisement;

or

(b) that an advertisement was published for the purposes of the business of the advertiser,

shall, in the absence of proof by the defendant to the contrary, be deemed to be proved.

3b. It shall be a defence to proceedings in respect of an offence against this Act for the defendant to prove that the unfair statement complained of was of such a nature that no reasonable person would rely on it. General defence.

3c. (1) A prosecution for an offence against this Act shall not be commenced except with the consent of the Attorney-General. Consent of Attorney-General.

(2) In any proceedings in connection with a prosecution referred to in subsection (1) of this section a document purporting to be a consent referred to in that subsection shall, in the absence of proof to the contrary, be deemed to be such a consent.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

M. L. OLIPHANT, Governor