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1997, No. 43

An Act to amend the Fair Trading Act 1986

[28 July 1997

BE IT ENACTED by the Parliament of New Zealand as follows:

1. Short Title—This Act may be cited as the Fair Trading Amendment Act 1997, and is part of the Fair Trading Act 1986 (“the principal Act”).

2. Interpretation—Section 2 (1) of the principal Act is amended by inserting, after the definition of the term “officer”, the following definition:

“ ‘Official standard’ means—

“(a) A New Zealand Standard within the meaning of section 2 of the Standards Act 1988; or

“(b) A standard specification prescribed by a body, organisation, or association having or performing similar functions to those of the Standards Council within the meaning of section 2 of the Standards Act 1988.”.

3. New Part substituted—The principal Act is amended by repealing Part II, and substituting the following Part:

“PART II

“CONSUMER INFORMATION

“27. **Consumer information standards**—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations prescribing, in respect of goods or services of any description or any class or classes of goods or services, a consumer information standard or 2 or more consumer information standards relating to all or any of the following matters:

“(a) The disclosure of information relating to the kind, grade, quantity, origin, performance, care, composition, contents, design, construction, use, price, finish, packaging, promotion, or supply of the goods or services:

“(b) The form and manner in which that information must be disclosed on or in relation to, or in connection with, the supply or resupply, or possible supply or resupply, or promotion of the supply of the goods or services.

“(2) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations declaring that:

“(a) An official standard or an official standard with such additions or variations as are specified in the regulations is a consumer information standard:

“(b) A specified part or parts of an official standard or of an official standard with such additions or variations as are specified in the regulations is a consumer information standard:

“(c) Two or more official standards or 2 or more official standards with such additions or variations as are specified in the regulations are consumer information standards:

“(d) Specified parts of 2 or more official standards or of 2 or more official standards with such additions or variations as are specified in the regulations are consumer information standards.

“(3) The Minister must not make a recommendation under this section unless—

“(a) The Minister has consulted with such persons or representatives of such persons as the Minister considers will be substantially affected by any Order in Council made in accordance with the recommendation and those persons have had the opportunity to comment to the Minister; and

“(b) The Minister has considered any such comments.

“(4) A failure to comply with subsection (3) does not affect the validity of any Order in Council made under this section.

“(5) No Order in Council may be made under this section in respect of any medicine or related product, within the meaning of the Medicines Act 1981, except in relation to the price of the medicine or related product.

“28. Compliance with consumer information standards—(1) If a consumer information standard in respect of goods or services relates to a matter specified in section 27 (1), a person must not supply, or offer to supply, or advertise to supply those goods or services unless that person complies with that consumer information standard.

“(2) If 2 or more consumer information standards in respect of goods or services relate to a matter specified in section 27 (1), a person must not supply, or offer to supply, or advertise to supply those goods or services unless that person complies with 1 of those consumer information standards.

“(3) Nothing in subsection (1) or subsection (2) applies to goods that are intended for use outside New Zealand if there is applied to the goods—

“(a) A statement that the goods are for export only; or

“(b) A statement indicating, by the use of words authorised by regulations made under this section, that the goods are intended to be used outside New Zealand,—

and it must be presumed for the purposes of this section, unless the contrary is established, that the goods so identified are intended to be so used.

“(4) For the purposes of subsection (3), a statement is deemed to be applied to goods if the statement is—

“(a) Woven in, impressed on, worked into, or annexed or affixed to the goods; or

“(b) Applied to a covering, label, reel, or thing in or with which the goods are supplied.”

4. New sections relating to product safety standards substituted—The principal Act is amended by repealing sections 29 and 30, and substituting the following sections:

“29. Product safety standards—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations in respect of goods of any description or any class or classes of goods, prescribing for the purpose of preventing or reducing the risk of injury to any person, a product safety standard or 2 or more product safety standards relating to all or any of the following matters—

“(a) The performance, composition, contents, manufacture, processing, design, construction, finish or packaging of the goods:

“(b) The testing of the goods during or after manufacture or processing:

“(c) The form and content of markings, warnings, or instructions to accompany the goods.

“(2) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations declaring that:

“(a) An official standard or an official standard with such additions or variations as are specified in the regulations is a product safety standard:

“(b) A specified part or parts of an official standard or of an official standard with such additions or variations as are specified in the regulations is a product safety standard:

“(c) Two or more official standards or 2 or more official standards with such additions or variations as are specified in the regulations are product safety standards:

“(d) Specified parts of 2 or more official standards or of 2 or more official standards with such additions or variations as are specified in the regulations are product safety standards.

“(3) The Minister must not make a recommendation under this section unless—

“(a) The Minister has consulted with such persons or representatives of such persons as the Minister considers will be substantially affected by any Order in Council made in accordance with the recommendation and those persons have had the opportunity to comment to the Minister; and

“(b) The Minister has considered any such comments.

“(4) A failure to comply with subsection (3) does not affect the validity of any Order in Council made under this section.

“**30. Compliance with product safety standards**—(1) If a product safety standard in respect of goods relates to a matter specified in section 29 (1), a person must not supply, or offer to supply, or advertise to supply those goods unless that person complies with that product safety standard.

“(2) If 2 or more product safety standards in respect of goods relate to a matter specified in section 29 (1), a person must not supply, or offer to supply, or advertise to supply those goods unless that person complies with 1 of those product safety standards.

“(3) Nothing in subsection (1) or subsection (2) applies to goods that are intended for use outside New Zealand if there is applied to the goods—

“(a) A statement that the goods are for export only; or

“(b) A statement indicating, by the use of words authorised by regulations made under this section, that the goods are intended to be used outside New Zealand,—

and it must be presumed for the purposes of this section, unless the contrary is established, that the goods so identified are intended to be so used.

“(4) For the purposes of subsection (3), a statement is deemed to be applied to goods if the statement is—

“(a) Woven in, impressed on, worked into, or annexed or affixed to the goods; or

“(b) Applied to a covering, label, reel, or thing in or with which the goods are supplied.”

5. New sections relating to services safety standards substituted—The principal Act is amended by repealing sections 35 and 36, and substituting the following sections:

“**35. Safety standards in respect of services**—(1) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations in respect of services of any description or any class or classes of services, prescribing for the purpose of preventing or reducing the risk of injury to any person, a services safety standard or 2 or more services safety standards relating to the performance of those services.

“(2) The Governor-General may, from time to time, on the recommendation of the Minister, by Order in Council, make regulations declaring that:

“(a) An official standard or an official standard with such additions or variations as are specified in the regulations is a services safety standard:

“(b) A specified part or parts of an official standard or of an official standard with such additions or variations as are specified in the regulations is a services safety standard:

“(c) Two or more official standards or 2 or more official standards with such additions or variations as are specified in the regulations are services safety standards:

“(d) Specified parts of 2 or more official standards or of 2 or more official standards with such additions or variations as are specified in the regulations are services safety standards.

“(3) The Minister must not make a recommendation under this section unless—

“(a) The Minister has consulted with such persons or representatives of such persons as the Minister considers will be substantially affected by any Order in Council made in accordance with the recommendation and those persons have had the opportunity to comment to the Minister; and

“(b) The Minister has considered any such comments.

“(4) A failure to comply with subsection (3) does not affect the validity of any Order in Council made under this section.

“36. Compliance with services safety standards—(1) If a services safety standard in respect of services is prescribed under section 35 (1), a person must not supply, or offer to supply, or advertise to supply those services unless that person complies with that services safety standard.

“(2) If 2 or more services safety standards in respect of services are prescribed under section 35 (1), a person must not supply, or offer to supply, or advertise to supply those services unless that person complies with 1 of those services safety standards.”

6. Transitional provisions relating to regulations in force before commencement of this Act—(1) Regulations made under section 27 or section 28 of the principal Act (as in force before the commencement of this Act) and that were in

force immediately before the commencement of this Act are deemed to have been made under section 27 of the principal Act (as substituted by this Act).

(2) Regulations made under section 29 or section 30 or under both sections 29 and 30 of the principal Act (as in force before the commencement of this Act) and that were in force immediately before the commencement of this Act are deemed to have been made under section 29 of the principal Act (as substituted by this Act).

This Act is administered in the Ministry of Commerce.
