

MERCHANDISE MARKS ACT

CHAPTER 78:47

Act
12 of 1887
Amended by
19 of 1939

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**Note
on
Subsidiary Legislation**

This Chapter contains no Subsidiary Legislation.

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MERCHANDISE MARKS ACT

ARRANGEMENT OF SECTIONS

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CHAPTER 78:47

MERCHANDISE MARKS ACT

1961 Ed.
Cap. 322.
12 of 1887.

AN ACT relating to Merchandise Marks.

Commencement.

[31st December 1887]

Short title.

1. This Act may be cited as the –
MERCHANDISE MARKS ACT.

Interpretation.

2. (1) In this Act –

“false trade description” means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description false in a material respect, and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent the trade description being a false trade description within the meaning of this Act;

“goods” means anything which is the subject of trade, manufacture or merchandise;

“name” includes any abbreviation of a name;

“persons,” “manufacturer, dealer or trader,” and “proprietor,” include any body of persons corporate or unincorporate;

“trade description” means any description, statement, or other indication, direct or indirect –

- (a) as to the number, quantity, measure, gauge, or weight of any goods;
- (b) as to the place or country in which any goods were made or produced;
- (c) as to the mode of manufacturing or producing any goods;
- (d) as to the material of which any goods are composed; or
- (e) as to any goods being the subject of an existing patent, privilege, or copyright,

and the use of any figure, word or mark which, according to the custom of the trade, is commonly taken to be an indication of

any of the above matters, shall be deemed to be a trade description within the meaning of this Act;

“trade mark” means a trade mark registered in the register of trade marks kept under the Trade Marks Act, and includes any trade mark which, either with or without registration, is protected by an Order under the said Act. Ch. 78:42.

(2) The provisions of this Act respecting the application of a false trade description to goods shall extend to the application to the goods of any such figures, words or marks, or arrangement or combination thereof whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

(3) The provisions of this Act respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if the name or initials were a trade description, and, for the purpose of this enactment, the expression “false name or initials” means, as applied to any goods, any name or initials of a person which –

- (a) are not a trade mark, or part of a trade mark; and
- (b) are identical with, or a colourable imitation of, the name or initials of a person carrying on business in connection with goods of the same description, and not having authorised the use of the name or initials; and
- (c) are either those of a fictitious person or of some person not *bona fide* carrying on business in connection with the goods.

3. (1) Every person who –

- (a) forges any trade mark;
- (b) falsely applies to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive;
- (c) makes any die, block, machine, or other instrument for the purpose of forging, or of being used for forging a trade mark;

Offences as to trade marks and trade descriptions.