

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1920.

A BILL

To provide for the indication of the country of origin and the trade description of goods ; and for purposes consequent thereon or incidental thereto.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as the " Goods Act, 1920." Short title.

- 2.** In this Act, unless the context or subject-matter otherwise indicates or requires,—
- “Covering” indicates stopper, glass, cask, bottle, vessel, box-cover, container, capsule, case, frame, or wrapper.
- “Goods” includes anything which is the subject of trade or manufacture.
- “Label” includes band or ticket.
- “Minister” means Minister of the Crown for the time being charged with the administration of this Act.
- “Prescribed” means prescribed by this Act or by any rule, regulation, or order made thereunder.
- “Sell” includes expose or have in possession for sale, or for any purpose of trade or manufacture.
- “Specified goods” means goods specified in a proclamation made by the Governor for the purposes of this Act and published in the Gazette.
- “Trade description” means any description, statement, indication, or suggestion direct or indirect as to—
- (a) the number, quantity, measure, gauge, or weight of any goods; or
 - (b) the country or place in or at which goods were made or produced; or
 - (c) the mode of manufacturing or producing any goods; or
 - (d) the material of which any goods are composed; or
 - (e) any goods being the subject of an existing patent, privilege, or copyright; and includes a newspaper advertisement relating to goods 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.
- “False trade description” means a trade description which by reason of anything contained therein or omitted therefrom is false or likely to mislead in a material respect as regards the goods to

Interpreta-
tion.Goods Act
(Vict.), 1915,
s. 86; 1918,
s. 2.

to which it is applied, and includes every alteration of a trade description whether by way of addition, effacement, or otherwise which makes the description false or likely to mislead.

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—

Goods Act,
1918 (Vict.),
s. 7.

- (a) to the application to goods, of any such figures, words, or marks or arrangement or combination thereof, as are reasonably calculated to lead persons to believe that the goods were made or produced in or at a country or place other than the country or place in or at which they were actually made or produced ; and
- (b) to any goods with any such figures, words, or marks, or arrangement or combination thereof as aforesaid applied thereto.

Administration of Act.

3. The administration of this Act is vested in the Minister.

4. The Governor may on the recommendation of the Public Service Board appoint inspectors and such other officers as may be necessary for the purposes of this Act. Such inspectors and other officers shall receive such remuneration and allowances as may be fixed by the Public Service Board and shall be subject to the provisions of the Public Service Acts during their tenure of office.

Inspector and
officers.

Trade description of goods.

5. No person shall sell any specified goods unless there is applied to them (or, if so prescribed, to any covering, label, reel, or thing used in connection therewith) in the manner prescribed a trade description indicating, in addition to any other matter prescribed, the country or place in or at which the said goods, or such portions or constituents thereof as are prescribed, were made or produced.

Trade
description to
be applied.
Goods Act,
1918 (Vict.),
s. 3.

6.

6. (1) No manufacturer, dealer, or trader shall, except as prescribed, alter by effacement or otherwise any trade description which has been applied under or in compliance with any law of New South Wales or of the Commonwealth of Australia to any goods, and no person shall sell any goods of which the trade description applied as aforesaid has been so altered.

Trade description not to be effaced, and goods altered not to be sold.
Ibid. s. 4.

(2) For the purposes of this section a trade description shall be deemed to be applied to goods if—

- (a) it is applied to the goods themselves ;
- (b) it is applied to any covering, label, reel or thing used in connection with the goods ; or
- (c) it is used in any manner likely to lead to the belief that it describes or designates the goods.

When trade description deemed to be applied.

7. Any person who falsely represents that any goods are made by a person holding a Royal Warrant or for the service of His Majesty or of any Government department shall be liable to a penalty of *twenty* pounds.

False representation as to Royal Warrant.
Goods Act, 1915 (Vict.), s. 103.

Offences.

8. (1) Any person who commits a contravention of the provisions of this Act shall, unless he proves that he acted without intent to deceive or defraud, be guilty of an offence.

Offences.
Goods Act, 1918 (Vict.), s. 5.

(2) Any person who aids, abets, counsels, or procures, or by act or omission is in any way directly or indirectly knowingly concerned in the commission of any contravention of this Act or of any regulation made thereunder shall be deemed to have committed that contravention and shall be punishable accordingly.

(3) Any person who, being within New South Wales, aids, abets, counsels, or procures, or is accessor to the commission outside New South Wales of any act which, if committed in New South Wales, would be an offence against the provisions of this Act shall be deemed to be guilty of that offence and be punishable accordingly.

Accessories.
Goods Act, 1915 (Vict.), s. 94.

9. A person who commits an offence against this Act where no other penalty or punishment is provided shall be liable to imprisonment, with or without hard labour, for two years, or to a penalty of *one hundred* pounds, or to both imprisonment and penalty.

Punishment.

10.

10. (1) All specified goods to which the prescribed trade prescription is not applied as provided by this Act which are offered for sale, and all goods in respect of which, or the covering, label, reel, or thing used in connection therewith, any trade description has been altered in contravention of the provisions of this Act and which are offered for sale, may, by direction of the Minister, be seized and forfeited to His Majesty.

Forfeiture of goods.
Goods Act, 1918 (Vict.), s. 6.

(2) Subject to the regulations, the Minister may in any case, and, if in his opinion the omission, alteration, or other contravention has not occurred either knowingly or negligently, shall permit any goods which are liable to or have been seized under this section to be delivered to the owner upon security to the satisfaction of the Minister that the goods will not be sold in contravention of the regulations.

Miscellaneous.

11. In the case of imported goods, evidence of the port of shipment shall be prima facie evidence of the country or place in which the goods were made or produced.

Evidence.
Goods Act, 1915 (Vict.), s. 93.

12. On the sale or in the contract for the sale of any goods to which a trade description has been applied, the seller shall be deemed to warrant that the trade description is not a false trade description within the meaning of this Act unless the contrary is expressed in some writing signed by or on behalf of the seller and delivered at the time of the sale or contract to and accepted by the purchaser.

Implied warranty.
Goods Act, 1915 (Vict.), s. 100.

13. Nothing in this Act—

- (a) shall exempt any person from any action, suit, or other proceeding which might but for the provisions of this Act be brought against him; or
- (b) shall entitle any person to refuse to make discovery or 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; or
- (c)

Savings.
Goods Act, 1915 (Vict.), s. 102.

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- (c) shall render liable to prosecution or punishment any servant of a master resident in New South Wales who bona fide acts in obedience to the instructions of such master and on demand by or on behalf of the prosecutor or complainant has given full information as to his master.

Regulations.

14. (1) The Governor may make regulations prescribing all matters and things required or permitted by this Act to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) Such regulations may prescribe a penalty not exceeding *twenty* pounds for any breach thereof.

(3) Such regulations shall—

- (a) be published in the *Gazette* ;
 - (b) take effect from the date of publication, or from a later date to be specified in such regulations ;
and
 - (c) be laid before both Houses of Parliament within fourteen days after publication if Parliament is in session, and if not, then within fourteen days after the commencement of the next session. If either House of Parliament passes a resolution, of which notice has been given, at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation, or part thereof, such regulation or part shall thereupon cease to have effect.
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