



Application of Enactments Ordinance 1954 (FLK No.13 of 1954)

Application of Colony Laws Ordinance 1955 (DS No.1 of 1955)

Application of Enactments (Amendment) Ordinance 1955 (FLK No.2 of 1955)

Application of Colony Laws Ordinance 1957 (DS No.2 of 1957)

Merchandising Marks Act 1953

UK Legis LINK as
originally enacted

[Merchandising Marks Act 1953 c.48](#)

English
commencement

31 July 1953 (Royal Assent)

English status

Repealed and replaced

AEO Schedule No.

64

Date applied in SGSSI:

1 March 1955

Extent of application:

Section 1(1)-(5), 4 and 5.

In Section 1(5) the word "Colony" shall be substituted
for the words "United Kingdom and Isle of Man"

Merchandising Marks Act 1953

Chapter 48

An Act to amend the provisions of the Merchandise Marks Acts, 1887 to 1938, relating to false trade descriptions, and to imported goods bearing the trade mark of a manufacturer, dealer or trader in the United Kingdom, and to amend the Merchandise Marks Act, 1887, in relation to offences.

[31 July 1953]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1 Extension of definitions of “trade description” and “false trade description”

- (1) In section three of the Merchandise Marks Act, 1887 Extension of (which, among other things, defines trade description ” as any description, statement, or other indication, direct or indirect, as to any of the matters mentioned in paragraphs (a) to (e) of the definition), that definition shall be amended by inserting after paragraph (a)-
“ (aa) as to the standard of quality of any goods, according to a classification commonly used or recognised in the trade,

Or

(ab) as to the fitness for purpose, strength, performance or behaviour of any goods, or”
- (2) In the said section three (which also defines “ ‘ false trade description’ to mean a trade description which is false in a material respect as regards the goods to which it is applied, and to include every alteration of a trade description making the description false in a material respect) that definition shall be amended by inserting after the word “false” in the second and third places where it occurs the words “ or misleading ”’.
- (3) Without prejudice to the generality of those definitions as so amended, a trade description (to whichever of the matters mentioned in the definition of trade description as so amended it relates) shall be deemed for the purposes of the said Act to be a false trade description if it is calculated to be misunderstood as, or mistaken for, an indication as to the same or some other such matter which would be false or misleading in a material respect as regards the goods to which the description is applied, and anything calculated to be misunderstood as, or mistaken for, an indication of any of those matters shall be deemed for those purposes to be a trade description.
- (4) Notwithstanding anything in the said definition of “ false trade description”, no trade mark within the meaning of the Trade Marks Act, 1938, or part of such a trade mark, shall by virtue of the foregoing subsections be treated as a false trade description in relation to any goods to which the trade mark is applied, if the following conditions are satisfied, that is to say:—

- (a) on the day this Act is passed the trade mark either is registered under the Trade Marks Act, 1938, or is in use to indicate a connection in the course of trade between those goods and the proprietor of the trade mark; and
 - (b) the trade mark as applied is used to indicate a connection in the course of trade between the goods and the person who is the proprietor of the trade mark or between the goods and a person who is registered under section twenty-eight of the Trade Marks Act, 1938, as a registered user of the trade mark; and
 - (c) the person who is the proprietor of the trade mark is the same person as, or a successor in title of, the proprietor on the day this Act is passed.
- (5) This section shall not extend the classes of goods which under section sixteen of the Merchandise Marks Act, 1887, are prohibited to be imported into the [Colony]
- (6) [not applied]

4 Clarification of s2(2) of Merchandise Act 1887

Section two of the Merchandise Marks Act, 1887, shall be amended by the deletion of subsection (2) thereof and the insertion of the following subsection :—

“(2) Every person who sells, or exposes for, or has in his possession for, sale, or any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark or mark so nearly resembling a trade mark as to be calculated to deceive is falsely applied, as the case may be, shall, unless

he proves either—

- (a) that, having taken all reasonable precautions against committing an offence against this Act, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description, and that, on demand made by or on behalf of the prosecutor, he gave all the information in his power with respect to the persons from whom he obtained such goods or things; or
- (b) that otherwise he had acted innocently;

be guilty of an offence against this Act ”’.

5 Increase of penalties

The maximum fine to which a person is liable under paragraph (ii) of subsection (3) of section two of the Merchandise Marks Act, 1887 (which relates to summary convictions for offences under that Act), shall be one hundred pounds or, in the case of a second or subsequent conviction, two hundred and fifty pounds (instead of twenty pounds or fifty pounds).

Notes:

1. Please see www.legislation.gov.uk website for the original Act and subsequent amendments and then consider it in the light of extent of application noted above and the Principal Adaptive Provisions.

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