



# Trade Descriptions Act 1968

## 1968 CHAPTER 29

An Act to replace the Merchandise Marks Acts 1887 to 1953 by fresh provisions prohibiting misdescriptions of goods, services, accommodation and facilities provided in the course of trade; to prohibit false or misleading indications as to the price of goods; to confer power to require information on instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements; to prohibit the unauthorised use of devices or emblems signifying royal awards; to enable the Parliament of Northern Ireland to make laws relating to merchandise marks; and for purposes connected with those matters. [30th May 1968]

### Modifications etc. (not altering text)

- C1** Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), s. 3
- C2** Act modified by S.I. 1977/1140, reg. 12(2)
- C3** Act excluded (E.W.S.) by S.I. 1985/1271, reg. 11 and (N.I.) by S.R. 1978/342, reg. 9(2)  
Act excluded (E.W.S.) by Weights and Measures Act 1985 (c. 72, SIF 131), s. 48(4), Sch. 11 para. 21(2)
- C4** Act restricted by Energy Conservation Act 1981 (c. 17, SIF 44:3), s. 19(2)  
Act restricted by S.R. 1987/407, reg. 10  
Act restricted (6.11.1995) by S.R. 1995/382, reg. 9
- C5** Act extended by Road Traffic Act 1988 (c. 52, SIF 107:1), s. 80(1)
- C6** Act applied (1.1.1995) by S.I. 1994/3142, reg. 18(5)  
Act applied (1.1.1995) by S.I. 1994/3144, reg. 9(11)(15) (as amended (30.10.2005) by S.I. 2005/2759, reg. 2(12))  
Act applied (30.10.2005) by The Medicines (Traditional Herbal Medicinal Products for Human Use) Regulations 2005 (S.I. 2005/2750), reg. 10(5) (with Sch. 6)

### Commencement Information

- I1** Act wholly in force at 30.11.1968 see s. 43(2).

*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

*Prohibition of false trade descriptions*

**1 Prohibition of false trade descriptions.**

(1) <sup>F1</sup> .....

[<sup>F2</sup>(2) Sections 2 to 4 shall have effect for the interpretation of expressions used in this Act <sup>F2</sup>]

**Textual Amendments**

**F1** S. 1(1) repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(a), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

**F2** S. 1(2) substituted (26.5.2008) by [The Consumer Protection from Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1), **Sch. 2 para. 9** (with savings in reg 28(2)(3))

**2 Trade description.**

(1) A trade description is an indication, direct or indirect, and by whatever means given, of any of the following matters with respect to any goods or parts of goods, that is to say—

- (a) quantity, size or gauge;
- (b) method of manufacture, production, processing or reconditioning;
- (c) composition;
- (d) fitness for purpose, strength, performance, behaviour or accuracy;
- (e) any physical characteristics not included in the preceding paragraphs;
- (f) testing by any person and results thereof;
- (g) approval by any person or conformity with a type approved by any person;
- (h) place or date of manufacture, production, processing or reconditioning;
  - (i) person by whom manufactured, produced, processed or reconditioned;
- (j) other history, including previous ownership or use.

(2) The matters specified in subsection (1) of this section shall be taken—

- (a) in relation to any animal, to include sex, breed or cross, fertility and soundness;
- (b) in relation to any semen, to include the identity and characteristics of the animal from which it was taken and measure of dilution.

(3) In this section “quantity” includes length, width, height, area, volume, capacity, weight and number.

(4) Notwithstanding anything in the preceding provisions of this section, the following shall be deemed not to be trade descriptions, that is to say, any description or mark applied in pursuance of—

- <sup>F3</sup>(a) .....
- <sup>F4</sup>(b) .....
- (c) the <sup>M1</sup>Plant Varieties and Seeds Act 1964;
- (d) the <sup>M2</sup>Agriculture and Horticulture Act 1964 [<sup>F5</sup>or any Community grading rules within the meaning of Part III of that Act];
- (e) the <sup>M3</sup>Seeds Act (Northern Ireland) 1965;
- (f) the <sup>M4</sup>Horticulture Act (Northern Ireland) 1966;

*Changes to legislation:* There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)

[<sup>F6</sup>(g) The Consumer Protection Act 1987;]

[<sup>F7</sup>(h) the Plant Varieties Act 1997;]

[<sup>F8</sup>any statement made in respect of, or mark applied to, any material in pursuance of Part IV of the <sup>M5</sup>Agriculture Act 1970, any name or expression to which a meaning has been assigned under section 70 of that Act when applied to any material in the circumstances specified in that section] . . . <sup>F9</sup> any mark prescribed by a system of classification compiled under section 5 of the <sup>M6</sup>Agriculture Act 1967 [<sup>F10</sup>and any designation, mark or description applied in pursuance of a scheme brought into force under section 6(1) or an order made under section 25(1) of the Agriculture Act 1970]

(5) Notwithstanding anything in the preceding provisions of this section,

[<sup>F11</sup>(a)] where provision is made under [<sup>F12</sup>the Food Safety Act 1990] or the [<sup>F13</sup>Food Safety (Northern Ireland) Order 1991][<sup>F14</sup>or the Consumer Protection Act 1987] prohibiting the application of a description except to goods in the case of which the requirements specified in that provision are complied with, that description, when applied to such goods, shall be deemed not to be a trade description.

[<sup>F15</sup>(b) where by virtue of any provision [<sup>F16</sup>of Chapter 1 of Part 13 of the Human Medicines Regulations 2012] anything which, in accordance with this Act, constitutes the application of a trade description to goods is subject to any requirements or restrictions imposed by that provision, any particular description specified in that provision, when applied to goods in circumstances to which those requirements or restrictions are applicable, shall be deemed not to be a trade description.]

[<sup>F17</sup>(c) where any description of a veterinary medicinal product is required to be applied to the product by an authorisation for the product granted under the Veterinary Medicines Regulations 2006, that description, when applied to the product, shall be deemed not to be a trade description. ]<sup>F17</sup>

#### Textual Amendments

- F3** S. 2(4)(a) repealed by [European Communities Act 1972 \(c. 68\)](#), s. 4, **Sch. 3 Pt. III**
- F4** S. 2(4)(b) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(r), **Sch. 23 para. 34(5)(a)**
- F5** Words inserted by [European Communities Act 1972 \(c. 68\)](#), s. 4, **Sch. 4 para. 4(2)**
- F6** S. 2(4)(g) inserted by [Consumer Safety Act 1978 \(c. 38\)](#), s. 7(8) and as substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(1), **Sch. 4 para. 2(1)(a)**
- F7** S. 2(4)(h) inserted (8.5.1998) by 1997 c. 66, s. 51(4); S.I. 1998/1028, **art.2.**
- F8** Words substituted (1.1.1974) by [Agriculture Act 1970 \(c. 40\)](#), s. 87(3)
- F9** Word repealed by [Agriculture Act 1970 \(c. 40\)](#), s. 6(4), **Sch. 5 Pt. V**
- F10** Words added by [Agriculture Act 1970 \(c. 40\)](#), s. 6(4)
- F11** Word "(a)" inserted by [Medicines Act 1968 \(c. 67, SIF 84\)](#), s. 135(1), **Sch. 5 para. 16**
- F12** Words "the Food Safety Act 1990" substituted (E.W.S.) by [Food Safety Act 1990 \(c. 16, SIF 53:1, 2\)](#), s. 59(1), **Sch. 3 para. 6**
- F13** Words in s. 2(5)(a) substituted (N.I.) (21.5.1991) by S.I. 1991/762 (N.I. 7), art. 51(1), **Sch. 2 para.8; S.R. 1991/175, art. 2(1)**
- F14** Words substituted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 48(1), **Sch. 4 para. 2(1)(b)** for words inserted by [Consumer Safety Act 1978 \(c.38, SIF 109:1\)](#), s. 7(8)
- F15** Para. (b) inserted by [Medicines Act 1968 \(c. 67, SIF 84\)](#), s. 135(1), **Sch. 5 para. 16**
- F16** Words in s. 2(5)(b) substituted (14.8.2012) by [The Human Medicines Regulations 2012 \(S.I. 2012/1916\)](#), reg. 1(2), **Sch. 34 para. 37** (with Sch. 32)

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**F17** S. 2(5)(c) added (1.10.2006) by [The Veterinary Medicines Regulations 2006 \(S.I. 2006/2407\)](#), reg. 44(3), **Sch. 9 Pt. 1 para. 2** (with reg. 3)

**Modifications etc. (not altering text)**

**C7** S. 2(5) amended (14.2.1989) by [Medicines Act 1968 \(c. 67\)](#), s. 135(1), **Sch. 5 para. 16**

**Marginal Citations**

**M1** 1964 c. 14.  
**M2** 1964 c. 28.  
**M3** 1965 c. 22 (N.I.)  
**M4** 1966 c. 15 (N.I.)  
**M5** 1970 c. 40  
**M6** 1967 c. 22.

### 3 False trade description.

- (1) A false trade description is a trade description which is false to a material degree.
- (2) A trade description which, though not false, is misleading, that is to say, likely to be taken for such an indication of any of the matters specified in section 2 of this Act as would be false to a material degree, shall be deemed to be a false trade description.
- (3) Anything which, though not a trade description, is likely to be taken for an indication of any of those matters and, as such an indication, would be false to a material degree, shall be deemed to be a false trade description.
- (4) A false indication, or anything likely to be taken as an indication which would be false, that any goods comply with a standard specified or recognised by any person or implied by the approval of any person shall be deemed to be a false trade description, if there is no such person or no standard so specified, recognised or implied.

**Modifications etc. (not altering text)**

**C8** S. 3(1) amended (1.1.1975) by [Hallmarking Act 1973 \(c. 43\)](#), s. 1(4)

### 4 Applying a trade description to goods.

- (1) A person applies a trade description to goods if he—
  - (a) affixes or annexes it to or in any manner marks it on or incorporates it with—
    - (i) the goods themselves, or
    - (ii) anything in, on or with which the goods are supplied; or
  - (b) places the goods in, on or with anything which the trade description has been affixed or annexed to, marked on or incorporated with, or places any such thing with the goods; or
  - (c) uses the trade description in any manner likely to be taken as referring to the goods.
- (2) An oral statement may amount to the use of a trade description.
- (3) Where goods are supplied in pursuance of a request in which a trade description is used and the circumstances are such as to make it reasonable to infer that the goods

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*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

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are supplied as goods corresponding to that trade description, the person supplying the goods shall be deemed to have applied that trade description to the goods.

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**Modifications etc. (not altering text)**

**C9** S. 4 extended (1.1.1975) by [Hallmarking Act 1973 \(c. 43\)](#), s. 1(7) (b)

**5 Trade descriptions used in advertisements.**

**F18** .....

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**Textual Amendments**

**F18** S. 5 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(b), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3), Sch. 3 para. 1)

**6 Offer to supply.**

**F19** .....

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**Textual Amendments**

**F19** S. 6 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(c), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

*Power to define terms and to require display, etc. of information*

**7 Definition orders.**

**F20** .....

.....  
**Textual Amendments**

**F20** Ss. 7-10 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(d), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

**8 Marking orders.**

**F21** .....

.....  
**Textual Amendments**

**F21** Ss. 7-10 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(d), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

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## 9 Information etc. to be given in advertisements.

F22

### Textual Amendments

**F22** Ss. 7-10 repealed (26.5.2008) by The Consumer Protection for Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1)(3), Sch. 2 para. 8(d), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

## 10 Provisions supplementary to sections 8 and 9.

F23

### Textual Amendments

**F23** Ss. 7-10 repealed (26.5.2008) by The Consumer Protection for Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1)(3), Sch. 2 para. 8(d), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

*Misstatements other than false trade descriptions*

## 11 ..... F24

### Textual Amendments

**F24** S. 11 repealed by Consumer Protection Act 1987 (c. 43, SIF 109:1), s. 48(3), **Sch. 5**

## 12 False representations as to royal approval or award, etc.

- (1) If any person, in the course of any trade or business, gives, by whatever means, any false indication, direct or indirect, that any goods or services supplied by him or any methods adopted by him are or are of a kind supplied to or approved by Her Majesty or any member of the Royal Family, he shall, subject to the provisions of this Act, be guilty of an offence.
- (2) If any person, in the course of any trade or business, uses, without the authority of Her Majesty, any device or emblem signifying the Queen's Award to Industry or anything so nearly resembling such a device or emblem as to be likely to deceive, he shall, subject to the provisions of this Act, be guilty of an offence.
- [<sup>F25</sup>(3) A person shall not be guilty of an offence under subsection (1) or (2) by reason of doing anything that is a commercial practice unless the commercial practice is unfair. In this subsection "commercial practice" and "unfair" have the same meaning as in the Consumer Protection from Unfair Trading Regulations 2008.<sup>F25</sup>]

### Textual Amendments

**F25** S. 12(3) added (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 10** (with savings in reg. 28(2)(3))

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### 13 False representations as to supply of goods or services.

F26 .....

#### Textual Amendments

**F26** Ss. 13-15 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(e), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

### 14 False or misleading statements as to services etc.

F27 .....

#### Textual Amendments

**F27** Ss. 13-15 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(e), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

### 15 Orders defining terms for purposes of section 14.

F28 .....

#### Textual Amendments

**F28** Ss. 13-15 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(e), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

#### *Prohibition of importation of certain goods*

### 16 Prohibition of importation of goods bearing false indication of origin.

Where a false trade description is applied to any goods outside the United Kingdom and the false indication, or one of the false indications, given, or likely to be taken as given, thereby is an indication of the place of manufacture, production, processing or reconditioning of the goods or any part thereof, the goods shall not be imported into the United Kingdom.

### 17 Restriction on importation of goods bearing infringing trade marks.

In the <sup>M7</sup>Trade Marks Act 1938 the following section shall be inserted after section 64:  
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- (1) The person who is registered as the proprietor or registered user of a trade mark in respect of any goods may give notice in writing to the Commissioners of Customs and Excise (in this section referred to as the Commissioners)—
  - (a) that he is the proprietor or registered user of that trade mark, and

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- (b) that such goods bearing the trade mark are expected to arrive in the United Kingdom at a time and place and by a consignment specified in the notice, and
  - (c) that the use within the United Kingdom of the trade mark in relation to the goods would infringe the proprietor's exclusive right to that use, and
  - (d) that he requests the Commissioners to treat the goods as prohibited goods.
- (2) Where a notice has been given under this section in respect of any goods bearing a trade mark and has not been withdrawn and the requirements of any regulations made under this section are complied with, then, subject to the following provisions of this section, the importation into the United Kingdom of the goods shall, if the condition of paragraph (c) of the preceding subsection is satisfied, be deemed to be prohibited unless the importation is for private and domestic use of the person importing the goods.
- (3) The Commissioners may make regulations prescribing the form in which notices are to be given under this section, and requiring a person giving such a notice, either at the time of giving the notice or at the time when the goods in question are imported, or at both those times, to furnish the Commissioners with such evidence, and to comply with such other conditions (if any), as may be specified in the regulations, and any such regulations may include such incidental and supplementary provisions as the Commissioners consider expedient for the purposes of this section.
- (4) Without prejudice to the generality of the preceding subsection, regulations made under that subsection may include provision for requiring a person who has given a notice under subsection (1) of this section, or a notice purporting to be a notice under that subsection,—
- (a) to pay such fees in respect of the notice as may be prescribed by the regulations;
  - (b) to give to the Commissioners such security as may be so prescribed, in respect of any liability or expense which they may incur in consequence of the detention of any goods to which the notice relates, or in consequence of any thing done in relation to goods so detained;
  - (c) whether any such security is given or not, to keep the Commissioners indemnified against any such liability or expense as is mentioned in the preceding paragraph.
- (5) For the purposes of section 11 of the Customs and Excise Act 1952 (which relates to the disposal of duties) any fees paid in pursuance of regulations made under this section shall be treated as money collected on account of customs.
- (6) Regulations made under subsection (3) of this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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**Modifications etc. (not altering text)**

- C10** The text of s. 17 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.



*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

**Marginal Citations**

M7 1938 c. 22

*Provisions as to offences*

**18 Penalty for offences.**

A person guilty of an offence under this Act for which no other penalty is specified shall be liable—

- (a) on summary conviction, to a fine not exceeding four hundred pounds; and
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding two years or both.

**Modifications etc. (not altering text)**

C11 Ss. 18, 19 extended with modifications by S.I. 1986/26, reg. 11(1) and S.I. 1988/1586, reg. 4(1)

**19 Time limit for prosecutions.**

- (1) No prosecution for an offence under this Act shall be commenced after the expiration of three years from the commission of the offence or one year from its discovery by the prosecutor, whichever is the earlier.
- (2) Notwithstanding anything in [<sup>F29</sup>section 127(1) of the <sup>M8</sup>Magistrates' Courts Act 1980], a magistrates' court may try an information for an offence under this Act if the information was laid at any time within twelve months from the commission of the offence.
- (3) Notwithstanding anything in section 23 of the <sup>M9</sup>Summary Jurisdiction (Scotland) Act 1954 (limitation of time for proceedings in statutory offences) summary proceedings in Scotland for an offence under this section may be commenced at any time within twelve months from the time when the offence was committed, and subsection (2) of the said section 23 shall apply for the purposes of this subsection as it applies for the purposes of that section.
- (4) Subsections (2) and (3) of this section do not apply where—
  - (a) the offence was committed by the making of an oral statement; or
  - (b) <sup>F30</sup> .....
  - (c) <sup>F30</sup> .....

**Textual Amendments**

F29 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, Sch. 7 para. 74

F30 S. 19(4)(b)(c) repealed (26.5.2008) by The Consumer Protection for Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(3), Sch. 4 Pt. 1 (with savings in reg. 28(2)(3), Sch. 3 paras. 1-4))

**Modifications etc. (not altering text)**

C12 Ss. 18, 19 extended with modifications by S.I. 1986/26, reg. 11(1) and S.I. 1988/1586, reg. 4(1)

C13 S. 19 applied (with modifications) (23.3.1996) by S.I. 1995/2489, reg. 10(1).

*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

### Marginal Citations

- M8** 1980 c. 43.  
**M9** 1954 c. 48.

## 20 Offences by corporations.

- (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) In this section “director”, in relation to any body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by the members thereof, means a member of that body corporate.

### Modifications etc. (not altering text)

- C14** S. 20 extended with modifications by S.I. 1986/26, **reg. 11(1)** and S.I. 1988/1586, **reg. 4(1)**  
S. 20 applied (with modifications) (23.3.1996) by S.I. 1995/2489, **reg. 10(1)**.

## 21 Accessories to offences committed abroad.

- (1) <sup>F31</sup> .....
- (2) <sup>F31</sup> .....
- (3) Any person who, in the United Kingdom, assists in or induces the commission outside the United Kingdom of an act which, if committed in the United Kingdom, would be an offence under section 12 of this Act shall be guilty of an offence.

### Textual Amendments

- F31** S. 21(1)(2) repealed (26.5.2008) by The Consumer Protection for Unfair Trading Regulations 2008 (S.I. 2008/1277), **reg. 30(1)(3)**, Sch. 2 para. 8(f), **Sch. 4 Pt. 1** (with savings in **reg. 28(2)(3)**)

## 22 Restrictions on institution of proceedings and admission of evidence.

- <sup>F32</sup> .....

### Textual Amendments

- F32** S. 22 repealed (26.5.2008) by The Consumer Protection for Unfair Trading Regulations 2008 (S.I. 2008/1277), **reg. 30(1)(3)**, Sch. 2 para. 8(g), **Sch. 4 Pt. 1** (with savings in **reg. 28(2)(3)**)

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## 23 Offences due to fault of other person.

Where the commission by any person of an offence under this Act is due to the act or default of some other person that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

### Modifications etc. (not altering text)

- C15** S. 23 extended by [Prices Act 1974 \(c. 24, SIF 99:6\)](#), s. 7, [Sch. para. 5\(3\)](#) and extended with modifications by [S.I. 1986/26, reg. 11\(1\)](#)  
S. 23 applied (with modifications) (23.3.1996) by [S.I. 1995/2489, reg. 10\(1\)](#).

## Defences

## 24 Defence of mistake, accident, etc.

- (1) In any proceedings for an offence under this Act it shall, subject to subsection (2) of this section, be a defence for the person charged to prove—
- (a) that the commission of the offence was due to a mistake or to reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and
  - (b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by himself or any person under his control.
- (2) If in any case the defence provided by the last foregoing subsection involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, within a period ending seven clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (3) <sup>F33</sup> .....

### Textual Amendments

- F33** S. 24(3) repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), [reg. 30\(3\)](#), [Sch. 4 Pt. 1](#) (with savings in [reg. 28\(2\)\(3\)](#), [Sch. 3 paras. 1-4](#))

### Modifications etc. (not altering text)

- C16** S. 24 extended with modifications by [S.I. 1986/26, reg. 11\(1\)](#) and by [S.I. 1988/1586, reg. 4\(1\)](#)  
S. 24 applied (with modifications) (23.3.1996) by [S.I. 1995/2489, reg. 10\(1\)](#).  
**C17** S. 24(1)(2) extended by [Prices Act 1974 \(c. 24, SIF 99:6\)](#), s. 7, [Sch. para. 5\(3\)](#)

## 25 Innocent publication of advertisement.

In proceedings for an offence under this Act committed by the publication of an advertisement it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business

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and did not know and had no reason to suspect that its publication would amount to an offence under this Act.

**Modifications etc. (not altering text)**

**C18** S. 25 extended with modifications by S.I. 1986/26, **reg. 11(1)**

*Enforcement*

**26 Enforcing authorities.**

- (1) It shall be the duty of every local weights and measures authority [<sup>F34</sup>as defined in [<sup>F35</sup>section 69(3) of the Weights and Measures Act <sup>M10</sup>1985]] to enforce within their area the provisions of this Act and of any order made under this Act; . . . <sup>F36</sup>
- [<sup>F37</sup>(1A) For the investigatory powers available to a local weights and measures authority for the purposes of the duty in subsection (1), see Schedule 5 to the Consumer Rights Act 2015.]
- (2) Every local weights and measures authority shall, whenever the Board of Trade so direct, make to the Board a report on the exercise of their functions under this Act in such form and containing such particulars as the Board may direct.
- <sup>F38</sup>(3) . . . . .
- (5) Nothing in this section shall be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

**Textual Amendments**

- F34** Words inserted (S.) by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 214(2), **Sch. 27 Pt. II para. 174(a)**
- F35** Words substituted by virtue of Weights and Measures Act 1985 (c. 72, SIF 131), s. 96(1), **Sch. 11 para. 3**
- F36** Words repealed by Local Government (Scotland) Act 1973 (c. 65, SIF 81:2), s. 214(2), Sch. 27 Pt. II para. 174(a), Sch. 29 and Weights and Measures Act 1985 (c. 72, SIF 131), ss. 96(1), 98, Sch. 11 para. 21(2), **Sch. 13 Pt. I**
- F37** S. 26(1A) inserted (1.10.2015) by Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 3**; S.I. 2015/1630, art. 3(i)
- F38** S. 26(3)(4) repealed by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:2), ss. 1, 194, **Sch. 4 para. 10** and Sch. 34 Pt. IV

**Modifications etc. (not altering text)**

- C19** S. 26 extended (1.1.1975) by Hallmarking Act 1973 (c. 43), **s. 9(1)**  
S. 26 extended with modifications by S.I. 1986/26, **reg. 11(2)** and by S.I. 1988/1586, **reg. 4(2)**  
S. 26 applied (with modifications) (23.3.1996) by S.I. 1995/2489, **reg. 10(1)**  
S. 26 restricted (23.3.1996) by S.I. 1995/2489, **reg. 9**
- C20** S. 26 applied by SI 1973/1952 reg. 8(3) (as substituted (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 2**)

*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

- C21** S. 26 applied by SI 1995/2489 reg. 10(2) (as substituted (1.10.2015) by The Consumer Rights Act 2015 (Commencement No. 3, Transitional Provisions, Savings and Consequential Amendments) Order 2015 (S.I. 2015/1630), art. 1, **Sch. 2 para. 23**)
- C22** S. 26(2) extended by Control of Pollution Act 1974 (c. 40, SIF 46:4), **s. 75(5)**
- C23** S. 26(2)(3) extended (27.8.1993) by 1993 c. 11, **ss. 30(4)(5)**, 32, 68(2).

**Marginal Citations**

- M10** 1985 c.72 (131).

**F<sup>39</sup>27 Power to make test purchases.**

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**Textual Amendments**

- F39** S. 27 omitted (1.10.2015) by virtue of Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 4**; S.I. 2015/1630, art. 3(i) (with art. 8)

**F<sup>40</sup>28 Power to enter premises and inspect and seize goods and documents.**

.....

**Textual Amendments**

- F40** S. 28 omitted (1.10.2015) by virtue of Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 5**; S.I. 2015/1630, art. 3(i) (with art. 8)

**F<sup>41</sup>29 Obstruction of authorised officers.**

.....

**Textual Amendments**

- F41** S. 29 omitted (1.10.2015) by virtue of Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 6**; S.I. 2015/1630, art. 3(i) (with art. 8)

**F<sup>42</sup>30 Notice of test and intended prosecution.**

.....

**Textual Amendments**

- F42** S. 30 omitted (1.10.2015) by virtue of Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 7**; S.I. 2015/1630, art. 3(i) (with art. 8)

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*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

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### 31 Evidence by certificate.

- (1) The Board of Trade may by regulations provide that certificates issued by such persons as may be specified by the regulations in relation to such matters as may be so specified shall, subject to the provisions of this section, be received in evidence of those matters in any proceedings under this Act.
- (2) Such a certificate shall not be received in evidence—
  - (a) unless the party against whom it is to be given in evidence has been served with a copy thereof not less than seven days before the hearing; or
  - (b) if that party has, not less than three days before the hearing, served on the other party a notice requiring the attendance of the person issuing the certificate.
- (3) In any proceedings under this Act in Scotland, a certificate received in evidence by virtue of this section or, where the attendance of a person issuing a certificate is required under subsection (2)(b) of this section, the evidence of that person, shall be sufficient evidence of the matters stated in the certificate.
- (4) For the purposes of this section any document purporting to be such a certificate as is mentioned in this section shall be deemed to be such a certificate unless the contrary is shown.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Modifications etc. (not altering text)

- C24** S. 31 extended (1.1.1975) by [Hallmarking Act 1973 \(c. 43\)](#), s. **9(3)**
- C25** S. 31(2)–(4) power to apply given (S.) by [Control of Pollution Act 1974 \(c. 40, SIF 46:4\)](#), s. **75(7)(b)**
- C26** S. 31(2)–(4): power to apply conferred on s. 31(2)–(4) (27.8.1993) by [1993 c. 11](#), ss. **30(6)**, 32, 68(2).  
S. 31(2)–(4) applied (1.10.1994) by [S.I. 1994/2295](#), reg. **10(1)**.

*Miscellaneous and supplemental.*

### 32 Power to exempt goods sold for export, etc.

F43

#### Textual Amendments

- F43** S. 32 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(h), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

### <sup>F44</sup>33 Compensation for loss, etc. of goods seized under s. 28.

#### Textual Amendments

- F44** S. 33 omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 8**; [S.I. 2015/1630](#), art. 3(i) (with art. 8)

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*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

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### 34 Trade marks containing trade descriptions.

The fact that a trade description is a trade mark, or part of a trade mark, <sup>F45</sup> . . . does not prevent it from being a false trade description when applied to any goods, except where the following conditions are satisfied, that is to say—

- (a) that it could have been lawfully applied to the goods if this Act had not been passed; and
- (b) that 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 such goods and the proprietor of the trade mark; and
- (c) that the trade mark as applied is used to indicate such a connection between the goods and the proprietor of the trade mark or [<sup>F46</sup>, in the case of a registered trade mark, a person licensed to use it]; and
- (d) that 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.

#### Textual Amendments

**F45** Words in s. 34 omitted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 4(a)**; S.I. 1994/2550, **art.2**.

**F46** Words in s. 34(c) substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 4(b)**; S.I. 1994/2550, **art.2**.

### 35 Saving for civil rights.

A contract for the supply of any goods shall not be void or unenforceable by reason only of a contravention of any provision of this Act.

### 36 Country of origin.

- (1) For the purposes of this Act goods shall be deemed to have been manufactured or produced in the country in which they last underwent a treatment or process resulting in a substantial change.
- (2) The Board of Trade may by order specify—
  - (a) in relation to any description of goods, what treatment or process is to be regarded for the purposes of this section as resulting or not resulting in a substantial change;
  - (b) in relation to any description of goods different parts of which were manufactured or produced in different countries, or of goods assembled in a country different from that in which their parts were manufactured or produced, in which of those countries the goods are to be regarded for the purposes of this Act as having been manufactured or produced.

### 37 Market research experiments.

<sup>F47</sup> .....

*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

### Textual Amendments

- F47** S. 37 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008](#) (S.I. 2008/1277), reg. 30(1)(3), Sch. 2 para. 8(i), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

## 38 Orders.

- (1) Any power to make an order under the preceding provisions of this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, and includes power to vary or revoke such an order by a subsequent order.
- (2) Any order under the preceding provisions of this Act which relates to any <sup>F48</sup> . . .]fertilisers or any goods used as pesticides or for similar purposes shall be made by the Board of Trade acting jointly with the following Ministers, that is to say, if the order extends to England and Wales, the Minister of Agriculture, Fisheries and Food, and if it extends to Scotland or Northern Ireland, the Secretary of State concerned.
- <sup>F49</sup>(2A) Any order under the preceding provisions of this Act which relates to any agricultural, horticultural or fishery produce, whether processed or not, food, feeding stuffs or the ingredients of food or feeding stuffs shall be made by the Board of Trade acting jointly with the following Ministers, that is to say, if the order extends to England and Wales, the Secretary of State concerned with health and if it extends to Scotland or Northern Ireland, the Secretary of State concerned.
- (2B) Before making an order to which subsection (2) or (2A) of this section applies the Board of Trade shall consult the Food Standards Agency.]
- (3) The following provisions shall apply to the making of an order under <sup>F50</sup>section 36 of this Act<sup>F50</sup>, that is to say—
- (a) before making the order the Board of Trade shall consult with such organisations as appear to them to be representative of interests substantially affected by it and shall publish, in such manner as the Board think appropriate, notice of their intention to make the order and of the place where copies of the proposed order may be obtained; and
  - (b) the order shall not be made until the expiration of a period of twenty-eight days from the publication of the notice and may then be made with such modifications (if any) as the Board of Trade think appropriate having regard to any representations received by them.

### Textual Amendments

- F48** Words in s. 38(2) repealed (1.4.2000) by [1999 c. 28, s. 40\(1\)\(4\), Sch. 5, para. 4\(2\), Sch. 6](#) (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F49** S. 38(2A)(2B) inserted (1.4.2000) by [1999 c. 28, s. 40\(1\), Sch. 5, para. 4\(3\)](#) (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F50** Words in s. 38(3) substituted (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008](#) (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 11** (with savings in reg. 28(2)(3))

### Modifications etc. (not altering text)

- C27** S. 38(2): Functions transferred (W.) (1.7.1999) from Minister of the Crown to Welsh Assembly by [S.I. 1999/672, arts. 1\(1\), 2, Sch. 1](#)



*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

**39 Interpretation.**

- (1) The following provisions shall have effect, in addition to sections <sup>F51</sup>2 to 4<sup>F51</sup> of this Act, for the interpretation in this Act of expressions used therein, that is to say,—
  - “advertisement” includes a catalogue, a circular and a price list;
  - “goods” includes ships and aircraft, things attached to land and growing crops;
  - “premises” includes any place and any stall, vehicle, ship or aircraft; and
  - “ship” includes any boat and any other description of vessel used in navigation.
- (2) <sup>F52</sup>.....

**Textual Amendments**

**F51** Words in s. 39(1) substituted (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 12** (with savings in reg. 28(2)(3))

**F52** S. 39(2) repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1)(3), **Sch. 2 para. 8(j)**, **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3), Sch. 3 paras. 1-4)

**40 Provisions as to Northern Ireland.**

- (1) This Act shall apply to Northern Ireland subject to the following modifications, that is to say—
  - (a) section 19(2) shall apply as if for the references to <sup>F53</sup>section 127(1) of the Magistrates’ Courts Act 1980]and the trial and laying of an information there were substituted respectively references to <sup>F54</sup>Article 19(1) of the Magistrates’ Courts (Northern Ireland) Order 1981]and the hearing and determination and making of a complaint <sup>F55</sup>and as if for the word “under” there were substituted the words “under section 29(1) of”;
  - (b) section 26 and subsections (2) to (4) of section 30 shall not apply but it shall be the duty of the Ministry of Commerce for Northern Ireland to enforce the provisions of this Act and of any order made under it (other than the provisions of section 42 of this Act);
  - <sup>F56</sup>(c) .....
- (2)—(4) . . . <sup>F57</sup>

<sup>F58</sup>(1A) For the investigatory powers available to the Department of Enterprise, Trade and Investment in Northern Ireland for the purposes of the duty in subsection (1)(b), see Schedule 5 to the Consumer Rights Act 2015.]

- (5) The Board of Trade shall for each financial year pay into the Exchequer of Northern Ireland such sum as the Board and the Ministry of Commerce for Northern Ireland may agree to be appropriate as representing the expenses incurred by that Ministry in enforcing so much of this Act as relates to matters with respect to which the Parliament of Northern Ireland does not have power to make laws.
- (6) Nothing in this Act shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament.

*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

(7) ..... F57

#### Textual Amendments

- F53** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), s. 154, **Sch. 7 para. 74**
- F54** Words substituted by [S.I. 1981/1675 \(N.I. 26\)](#), **Sch. 6 Pt. I para. 13**
- F55** Words added (N.I.) by [S.I. 1980/704 \(N.I. 6\)](#), **Sch. 1 para. 43**
- F56** [S. 40\(1\)\(c\)](#) omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 9(2)**; [S.I. 2015/1630, art. 3\(i\)](#) (with art. 8)
- F57** [S. 40\(2\)—\(4\)\(7\)](#) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 6 Pt. I**
- F58** [S. 40\(1A\)](#) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 9(3)**; [S.I. 2015/1630, art. 3\(i\)](#)

#### Modifications etc. (not altering text)

- C28** [S. 40\(b\)\(c\)](#) extended by [Control of Pollution Act 1974 \(c. 40, SIF 46:4\)](#), **s. 75(8)**

### 41 Consequential amendments and repeals.

(1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments specified in that Schedule.

(2) ..... F59

#### Textual Amendments

- F59** [S. 41\(2\)](#) repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), s. 1(1), **Sch. Pt. XIII**

#### Modifications etc. (not altering text)

- C29** The text of [S. 41\(1\)](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

42 ..... F60

#### Textual Amendments

- F60** [S. 42](#) repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#) s. 1(1) Sch. Pt. XIII

### 43 Short title and commencement.

(1) This Act may be cited as the Trade Descriptions Act 1968.

(2) This Act shall come into force on the expiration of the period of six months beginning with the day on which it is passed.

*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 41(1).

#### CONSEQUENTIAL AMENDMENTS

- 1 In section 1 of the <sup>M11</sup>Anglo-Portuguese Commercial Treaty Act 1914 for the words “the <sup>M12</sup>Merchandise Marks Act 1887” there shall be substituted the words “ the Trades Descriptions Act 1968 ”.

**Modifications etc. (not altering text)**

**C30** The text of Sch. 1 paras. 1—3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M11** 1914 c. 1 (5 & 6 Geo. 5.)

**M12** 1887 c. 28.

- 2 In section 1(1) of the <sup>M13</sup>Anglo-Portuguese Treaty Act 1916 for the words “the Merchandise Marks Act 1887” there shall be substituted the words “ the Trade Description Act 1968 ”.

**Modifications etc. (not altering text)**

**C31** The text of Sch. 1 paras. 1—3 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M13** 1916 C. 39

<sup>F61</sup>3 .....

**Textual Amendments**

**F61** Sch. 1 para. 3 omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\)](#), s. 115(3)(f), [Sch. 23 para. 34\(5\)\(b\)](#)

4 ..... <sup>F62</sup>

**Textual Amendments**

**F62** Sch. 1 para. 4 repealed by [Road Traffic Act 1972 \(c. 20\)](#), [Sch. 9 Pt. 1](#)

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*Changes to legislation: There are currently no known outstanding effects for the Trade Descriptions Act 1968. (See end of Document for details)*

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F63F63 SCHEDULE 2

**Textual Amendments**

**F63** Sch. 2 repealed by Statute Law (Repeals) Act 1975 (c. 10), s. 1(1), **Sch. Pt. XIII**

.....  
F63

**Changes to legislation:**

There are currently no known outstanding effects for the Trade Descriptions Act 1968.