

FAIR TRADING ACT

Act 26 of 1979 – 16 June 1980

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FAIR TRADING ACT

1. Short title

This Act may be cited as the Fair Trading Act.

2. Interpretation

In this Act—

“code of practice” means the rules relating to the methods to be adopted in connection with the promotion and conduct of trade or the provision of services;

“consumer” means an individual to whom goods or services are supplied;

“consumer trade practice” means any practice carried on in connection with the production and supply of goods, whether by way of sale or otherwise, to consumers or in connection with the supply of services for consumers and which relates to—

- (a) the terms and conditions, whether as to price or otherwise, on or subject to which goods or services are supplied;
- (b) the manner in which those terms and conditions are communicated to consumers;
- (c) methods of promotion of the supply of goods and services;
- (d) methods of salesmanship employed in dealing with consumers;
- (e) the way in which goods are packed, bottled, canned, labelled, marked or otherwise prepared for the purpose of being supplied;

- (f) methods of demanding or securing payment for goods or services supplied; or
- (g) any matter connected with the practices specified in paragraphs (a) to (f);

“Court” has the same meaning as in the Consumer Protection (Price and Supplies Control) Act;

“goods” means any article which is the subject of trade or business;

“Minister” means the Minister to whom responsibility for the subject of consumer protection is assigned;

“prize competition” means a lottery organised under Part XVII of the Gambling Regulatory Act;

“promotion”, in relation to the supply of goods and services, means promotion whether by way of advertising, canvassing, labelling, organising of prize competitions or otherwise;

“services” means services specified in the Schedule;

“supply”, in relation to supply of goods, includes supply by way of sale, lease, hire or hire purchase;

“trade” means the production, distribution, sale, transfer, import, export, use or other dealing in goods and includes the provision of services;

“trader” —

- (a) means a person engaged in any trade; and
- (b) includes the agent of any such person.

[S. 2 amended by Act 12 of 1998 w.e.f. 7 September 1998.]

3. Authorised officers

The Minister may designate any public officer to be an authorised officer for the purpose of ensuring compliance with this Act.

4. Prohibited consumer trade practice

No person shall, for the purposes of trade or promotion, carry on a consumer trade practice which has the effect or is likely to have the effect of —

- (a) misleading consumers or withholding from them adequate information as to their rights and obligations under any consumer transaction;
- (b) otherwise misleading or confusing consumers with respect to any matter in connection with any consumer transaction;
- (c) subjecting consumers to undue pressure to enter into any consumer transaction;
- (d) causing the terms or conditions on which consumers enter into any consumer transaction to be so adverse to them as to be detrimental to their interests.

5. Unlawful conditions

No trader shall, when supplying goods or services, impose any condition in connection with such supply except—

- (a) the charging of cash payment at the current ruling rate or, as the case may be, at the price which is fixed by law;
- (b) any limitation, restriction or other condition—
 - (i) provided for in any enactment; or
 - (ii) authorised by the Minister.

6. —

[S. 6 amended by Act 33 of 1988 w.e.f. 3 December 1988; Act 18 of 1998 w.e.f. 8 July 1998; repealed by s. 73 of Act 25 of 2007 w.e.f. 25 November 2009.]

7. Technical committees

(1) The Minister may appoint technical committees which shall—

- (a) be responsible for preparing provisional codes of practice;
- (b) study the objections and representations lodged under section 9 (2) (b); and
- (c) make recommendations to the Minister.

(2) Every technical committee shall be appointed by the Minister on such terms and conditions as he thinks fit and shall be composed of persons from any association and from the private and public sectors who have knowledge and experience in matters relating to standards to be laid down in codes of practice.

8. Regulations and amendment of Schedule

(1) Notwithstanding any other enactment, the Minister may make such regulations as he thinks fit for the purposes of this Act and for the purpose of regulating consumer trade practices.

(2) Regulations made under subsection (1) may provide for—

- (a) the issue of licences and permits;
- (b) the registration of traders and traders' warehouses; and
- (c) the levying of fees and charges.

(3) The Minister may refuse to issue a licence, permit or certificate of registration or suspend or cancel any licence, permit or certificate of registration, issued under this Act.

(4) The Minister may, by regulations, amend the Schedule.

9. Declaration of compulsory code of practice

(1) Where the Minister intends to declare a compulsory code of practice, he shall give notice of his intention and publish a provisional code of practice in the *Gazette*.

(2) Any interested person may—

- (a) on written application, inspect the particulars of a provisional code of practice at the Ministry responsible for the subject of consumer protection;
- (b) within 3 months from the publication of a notice under subsection (1), lodge with the Minister a written objection or representation concerning the provisional code of practice.

(3) The Minister may, after 6 months from the publication of the notice under subsection (1) and after giving due consideration to any objection or representation, by regulations, declare a compulsory code of practice.

(4) Where a compulsory code of practice has been declared under subsection (3), no person concerned at any stage of the production or supply of goods or services to which the code refers shall act in breach of the compulsory code of practice.

10. Power to make test purchases

Notwithstanding any other enactment, the Minister may, for purposes of analysis and control, require an authorised officer to purchase on his behalf such goods as may be necessary for the purpose of determining whether or not this Act is being complied with.

11. Powers of authorised officers

An authorised officer may—

- (a) inspect any premises used for the purpose of a trade—
 - (i) at any time during working hours; or
 - (ii) at any time when the premises are open for the purpose of such trade;
- (b) require any person, who has in his possession or custody or under his control or that of any other person on his behalf any document, to produce that document; and
- (c) examine, make copies of, or take extracts from, any document, which relates to the trade of such person.

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12. Seizure and forfeiture

(1) An authorised officer may seize and detain any goods or document which he has reasonable cause to believe may be the subject matter of an offence under this Act.

(2) Where any goods seized under subsection (1) are of a perishable nature, the Minister may, in such manner as he thinks fit, authorise the sale of such goods and shall cause the value of the proceeds of such sale to be deposited with the Accountant-General.

(3) Where the person charged with an offence under this Act is convicted, the Court may order the forfeiture—

- (a) of any goods or document seized under subsection (1); and
- (b) of any amount deposited under subsection (2).

(4) Where a judgment is delivered in favour of the owner of goods seized and disposed under subsection (2), the amount deposited with the Accountant-General shall be refunded to the owner together with interest at the legal rate from the date of the seizure of the goods to the date the amount is refunded.

13. Offences

Any person who—

- (a) contravenes this Act;
- (b) for the purposes of, or in connection with, this Act—
 - (i) makes a statement which he knows or ought to have known to be false or misleading in a material particular;
 - (ii) obtains or retains a document to which he is not entitled;
 - (iii) personates or falsely represents himself to be a person entitled to a document;
 - (iv) makes or causes to be made or without reasonable excuse has in his possession any writing which so closely resembles a document as to be likely to deceive;
 - (v) fraudulently alters a document;
 - (vi) with intent to deceive, produces or makes use of a document which is false or misleading in a material particular or has been fraudulently altered; or
 - (vii) sells or otherwise transfers or lends a document issued to him,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding one year.

[S. 13 amended by Act 33 of 1988; s. 12 of Act 14 of 2005 w.e.f. 21 April 2005.]

14. Repetition of offences

Any person convicted more than once under this Act shall, on the second and every subsequent conviction, be liable to a fine not exceeding 100,000 rupees together with imprisonment for a term not exceeding 2 years.

[S. 14 amended by Act 33 of 1988.]

15. —

SCHEDULE

[Section 2]

1. Advertising
 2. Building work
 3. Package holidays
 4. Dry cleaning
 5. Motor trade, including repairs and servicing
 6. Professional services
 7. Banking
 8. Insurance
 9. Transport
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