

(Queensland)



ANNO TERTIO DECIMO

ELIZABETHAE SECUNDAE REGINAE

No. 68 of 1964

An Act to Repeal "The Trade Descriptions (Textile Products) Act of 1954," and to Amend "The Health Acts, 1937 to 1962," and "The Factories and Shops Acts, 1960 to 1963," each in certain particulars

[ASSENTED TO 23RD DECEMBER, 1964]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY

1. Short title. This Act may be cited as "*The Trade Descriptions (Textile Products) Act Repeal, and Other Acts Amendment Act of 1964.*"

2. Parts of Act. This Act is divided into Parts as follows:—

PART I—PRELIMINARY;

PART II—REPEAL OF "THE TRADE DESCRIPTIONS (TEXTILE PRODUCTS) ACT OF 1954";

PART III—AMENDMENT OF "THE HEALTH ACTS, 1937 TO 1962";

PART IV—AMENDMENTS OF "THE FACTORIES AND SHOPS ACTS, 1960 TO 1963."

PART II—REPEAL OF “THE TRADE DESCRIPTIONS (TEXTILE PRODUCTS) ACT OF 1954”

3. Repeal of 3 Eliz. II No. 14. (1) “*The Trade Descriptions (Textile Products) Act of 1954*” (herein called the “repealed Act”) is repealed.

(2) Without limiting the operation of “*The Acts Interpretation Acts, 1954 to 1962*”—

(a) the repeal of the repealed Act shall not in any wise affect any trade description required thereunder and such trade description shall have the same status and effect as if it had originated under the provisions of Part X of “*The Factories and Shops Acts, 1960 to 1964*”;

(b) all proceedings initiated, pending, or part heard under the repealed Act shall be continued as if such proceedings had been taken or initiated under Part X of “*The Factories and Shops Acts, 1960 to 1964*.”

(3) Where in any other Act a reference is made to the repealed Act or to any provision of such Act, that reference shall be read as a reference to Part X of “*The Factories and Shops Acts, 1960 to 1964*” and to the corresponding provision of that Part.

PART III—AMENDMENT OF “THE HEALTH ACTS, 1937 TO 1962”

4. (1) Construction of Part III. This Part III of this Act shall be read as one with “*The Health Acts, 1937 to 1962*.”

(2) **Collective title.** “*The Health Acts, 1937 to 1962*” and this Part III of this Act may be collectively cited as “*The Health Acts, 1937 to 1964*.”

5. Repeal of s. 126. (1) “*The Health Acts, 1937 to 1962*,” are amended by repealing section one hundred and twenty-six (herein called “the repealed section”).

(2) Without limiting the operation of “*The Acts Interpretation Acts, 1954 to 1962*”—

(a) the repeal of the repealed section shall not in any wise affect any statement or words stamped upon or impressed on any boot or shoe and such statement or words shall have the same status and effect as if they had originated under the provisions of Part X of “*The Factories and Shops Acts, 1960 to 1964*”;

(b) all proceedings initiated, pending, or part heard under the repealed section (including the regulations made pursuant thereto) shall be continued, if practicable as if such proceedings had been taken or initiated under the provisions of Part X of “*The Factories and Shops Acts, 1960 to 1964*” (including the regulations made pursuant thereto), but if it is not practicable so to apply that Part, then such proceedings shall continue according to the provisions of the repealed section which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof;

(c) every regulation made by the Director-General under the repealed section and subsisting immediately prior to the commencement of this Act shall so far as it is consistent with the provisions of Part X of “*The Factories and Shops Acts, 1960 to 1964*,” continue as fully and effectually as if it had been made by the Governor in Council pursuant to the provisions of that Part (and shall, where necessary, be deemed to have been so made).

PART IV—AMENDMENTS OF “THE FACTORIES AND SHOPS ACTS,
1960 TO 1963”

6. (1) **Construction of Part IV.** This Part IV of this Act shall be read as one with “*The Factories and Shops Acts, 1960 to 1963.*”

(2) **Collective title.** “*The Factories and Shops Acts, 1960 to 1963*” and this Part IV of this Act may be collectively cited as “*The Factories and Shops Acts, 1960 to 1964.*”

7. **Amendments of s. 5 (1).** Subsection (1) of section five of “*The Factories and Shops Acts, 1960 to 1963,*” is amended by—

(a) in the definition “Advertisement” after the words “leather goods” where thrice appearing inserting the symbol and words “, textile goods”;

(b) in the definition “Closing time” omitting the words and numerals “under the provisions of “*The Industrial Conciliation and Arbitration Acts, 1932 to 1959,*” and inserting in their stead the words and numerals “under the provisions of any order under Part VIIA of “*The Industrial Conciliation and Arbitration Acts, 1961 to 1964,*”;

(c) inserting after the definition “Employee” the following definition:—

“ “Exempted shop” —Any shop specified in subsection (1) of section sixty of this Act to the extent to which the provisions of Part VIII of this Act do not apply with respect thereto;”;

(d) in the definition “False trade description” after the words “leather goods” where twice appearing inserting the symbol and words “, textile goods”;

(e) inserting after the definition “False trade description” the following definition:—

“ “Fibre” —Wool, hair, silk, cotton, linen, and any other fibrous material, whether natural or artificial;”;

(f) inserting in the definition “Leather goods” after the words and symbols “similar travel goods;” the words and symbols “boots and shoes;”;

(g) inserting after the definition “Minister” the following definition:—

“ “Non-exempted shop” —Any shop other than an exempted shop, an office or a small shop;”;

(h) in the definition “Opening time” omitting the words “under the provisions of “*The Industrial Conciliation and Arbitration Acts, 1932 to 1959,*” and inserting in their stead the words “under the provisions of any order under Part VIIA of “*The Industrial Conciliation and Arbitration Acts, 1961 to 1964,*””;

(i) inserting after the definition “Opening time” the following definition:—

“ “Order” —An order made under Part VIIA of “*The Industrial Conciliation and Arbitration Acts, 1961 to 1964,*” and in force at any material time;”;

(j) inserting after the definition “Sell” the following definition:—

“ “Shoes” —Includes the articles usually sold as slippers, sandals, thongs or scuffs;”;

(k) in the definition “Shop” —

(i) inserting after the word “hairdressers”, where that word appears in paragraph (ii), the words “or beauticians”; and

- (ii) inserting after paragraph (iii) the following paragraph:—
“ or (iv) any place used for a purpose specified by the Governor in Council (who is hereby thereunto authorized) by Order in Council.”;

(l) inserting after the definition “ Shop assistant ” the following definitions:—

“ “ Small shop ”—Any shop other than an office in the conduct of the business carried on wherein—

- (a) not more than two persons are engaged in any way whatsoever;
- (b) the person engaged is the owner of the business or, if two persons are engaged, one of them is or they jointly are the owner or owners of the business;
- (c) a person engaged is not also engaged in any way whatsoever in any other retail business;
- (d) subject as provided in this definition, a person is not engaged as an employee;
- (e) goods are sold by retail only;
- (f) goods other than the following goods are not stocked or sold that is to say groceries, fishing tackle, the lines prescribed for the time being by regulation thirty-one or any regulation amending or substituted for that regulation and the following lines :—

Bias binding, braid, sewing cotton, clip fasteners, press studs, combs, crochet hooks, elastic, hooks and eyes, knitting needles, sewing needles, pins, tape, thimbles, zippers;

Boot and shoe laces, cleaning and washing-up sponges, pot cleaners, dish cloths, primus prickers, steel wool, tin, can and bottle openers, white spirits, brushes (excluding paint brushes more than 2" in width), feather and woollen dusters, fertilisers in packets not exceeding 7 lbs., washing mops, mineral turps in bottles and tins of paint not exceeding $\frac{1}{4}$ pint:

Provided that—

- (i) only one employee may be engaged and only during the ordinary working hours fixed by the relevant award;
- (ii) where the person engaged in conducting the business or, if two persons are so engaged, one of them becomes incapable through illness or accident of actively engaging in the conduct of the business or, for any other reason, is absent for a period not exceeding two months, another person may be engaged or employed in the conduct of the business in his stead during his incapacity or absence;

“ Sole ”—All that part of a boot or shoe which in use is under the foot of the wearer, including both the outsole and the insole and the heel, but not including the thin slip of leather, paper, or like material which is affixed to the upper surface of the inner sole and also not including thread, wax, rivets, pegs, nails, toe-plates and heel-plates;

“ Textile Goods ”—

- (i) woven, knitted or felted materials manufactured from fibre;
- (ii) tops, yarns, threads and lace; and
- (iii) articles of wearing apparel manufactured in whole or in part of such materials but not including linings, interlinings or trimmings forming part of such articles;”;

(m) inserting in the definition "Trade description" after the words "leather goods" the symbol and words "textile goods"; and

(n) inserting after the definition "Week" the following definition:—
" "Wool"—The natural fibre from the fleece of any variety of sheep or lamb;"

8. Amendment of s. 44. Section forty-four of "*The Factories and Shops Acts, 1960 to 1963*," is amended by adding the following paragraph:—

" Upon convicting a person of an offence against this section for that such person accepted a consideration, premium, gift, forbearance or allowance in connection with the employment of any person by him in any factory or shop the industrial magistrate shall, in addition to any penalty which he may impose, order the offender to repay the amount so accepted to the person from whom he accepted it."

9. Repeal of s. 58. Section fifty-eight of "*The Factories and Shops Acts, 1960 to 1963*" is hereby repealed.

10. Amendments of s. 60. Section sixty of "*The Factories and Shops Acts, 1960 to 1963*," is amended by—

(a) in subsection (1)—

(i) inserting after subparagraph (xiii) of the first paragraph the following subparagraph:—

" (xiv) automatic coin operated pumps for supplying fuel for use as such for operating motor vehicles provided in the case of any such pump that the person supplying fuel therefrom or an agent or employee of such person does not operate the pump or do any work whatsoever (including by the changing of money) for any purpose of or in connection with the supplying therefrom of fuel outside the relevant trading hours fixed by the Full Bench of the Industrial Commission by order under Part VIIA of "*The Industrial Conciliation and Arbitration Acts, 1961 to 1964*" ;"

(ii) omitting the proviso and inserting in its stead the following proviso:—

" Provided that in respect of—

(a) the stocking or sale in any shop hereinbefore specified in this subsection of goods other than goods which are prescribed to be exempted goods; or

(b) the sale by wholesale in any such shop of goods which are prescribed to be exempted goods,

the provisions of this Part shall apply to such shop and any reference in this Part to an exempted shop does not refer to such shop." ;

(b) in subsection (2)—

(i) omitting the words, numerals and brackets " "*The Industrial Conciliation and Arbitration Acts, 1932 to 1958*" (including all awards)" and inserting in their stead the words, numerals and brackets " "*The Industrial Conciliation and Arbitration Acts, 1961 to 1964*" (including all awards and all orders under Part VIIA thereof)" ;

(ii) omitting the words "and the ordinary hours of employment of any persons employed in" ;

(iii) omitting the word "including" and inserting in its stead the word "excluding" ;

(iv) inserting after the words "every award" the words "and every order under the said Part VIIA" .

11. Amendments of s. 61. Section sixty-one of "*The Factories and Shops Acts, 1960 to 1963*," is amended by—

(a) in the proviso to subsection (1)—

(i) omitting the words "or all or any of the ordinary hours of employment of any shop assistants employed in,";

(ii) omitting the words "are prescribed by or ascertainable from an award" and inserting in their stead the words "are fixed by an order under Part VIIA of "*The Industrial Conciliation and Arbitration Acts, 1961 to 1964*," or an award";

(iii) omitting the words "provisions of the award" and inserting in their stead the words "provisions of the order or award";

(b) in subsection (2) omitting the proviso;

(c) omitting subsections (3) and (4).

12. Amendments of s. 74. Section seventy-four of "*The Factories and Shops Acts, 1960 to 1963*" is amended by—

(a) in subsection (1) omitting paragraphs (i) and (ii) and inserting in their stead the following paragraphs:—

" (i) all leather goods;

(ii) all textile goods; and

(iii) all other goods (in this Part referred to as "other goods") to which the provisions of this Part are extended pursuant to the provisions of subsection (2) of this section."; and

(b) in subsection (3) omitting the symbols, words, and figures " "*The Trade Descriptions (Textile Products) Act of 1954*," or ".

13. Repeal of and new s. 75. "*The Factories and Shops Acts, 1960 to 1963*," are amended by repealing section seventy-five and inserting in its stead the following section:—

" [75.] **Duty to label goods.** A person shall not sell any—

(a) leather goods;

(b) textile goods; or

(c) other goods,

unless a trade description complying with section seventy-six of this Act is applied thereto in accordance with that section."

14. Amendment of s. 76. Section seventy-six of "*The Factories and Shops Acts, 1960 to 1963*," is amended by omitting subsection (2) and inserting in its stead the following subsections:—

"(2) (a) The trade description required by section seventy-five of this Act to be applied to any textile goods shall comply in every respect with the following requirements:—

(i) it shall be written in English in clearly legible characters;

(ii) it shall be attached to the goods in the prescribed manner, or if none is prescribed, it shall be printed or stamped on, or woven into, the goods, or securely attached to the goods;

(iii) it shall be conspicuously placed so as to be clearly visible and shall be applied to the prescribed part or parts (if any) of the goods;

(iv) if the goods contain ninety-five per centum or more by weight of wool, it shall include the words "PURE WOOL";

- (v) if the goods contain less than ninety-five per centum by weight of wool, it shall not include the words "PURE WOOL";
- (vi) if the goods contain less than ninety-five per centum by weight of wool but not less than five per centum by weight of wool, it shall include a statement specifying—
 - (A) the percentage by weight of wool which is contained in the goods; and
 - (B) the other fibres contained in the goods in order of dominance by weight.

Where the percentage by weight of wool is greater than the percentage by weight of any other fibre, it shall state the percentage by weight of wool first, otherwise last;

- (vii) if the goods contain less than five per centum by weight of wool, it shall state the fibres other than wool in order of dominance by weight followed by the words "less than five per centum wool";
- (viii) if the goods contain no wool, it shall include a statement specifying the fibre contained in the goods, or if the goods contain more than one fibre, the fibres in order of dominance by weight;
- (ix) if the goods contain loading or weighing substances, it shall include the word "LOADED" or the word "WEIGHTED" unless the loading substances are ordinary dressing;
- (x) if the goods contain paper, it shall include a statement that the goods contain paper;
- (xi) additionally it shall include such other particulars, if any, as may be prescribed.

(b) It shall be deemed to be sufficient compliance with subparagraphs (ii) and (iii) of paragraph (a) of this subsection if a trade description is applied in the prescribed manner to any prescribed covering, label, reel or thing used in connection with the textile goods.

(c) Where textile goods contain less than five per centum by weight of any fibre other than wool, or paper, the description under this subsection need not mention that fibre.

(d) In this section the term "ordinary dressing" means a dressing which—

- (i) is used to meet legitimate trade requirements; and
- (ii) does not contain anything in the nature of an adulteration; and
- (iii) does not contain anything used for the purpose of deceiving as to the quality, substance or nature of the textile goods.

(3) The trade description required by section seventy-five of this Act to be applied to other goods shall comply in every respect with the requirements prescribed by regulations in relation to those goods."

15. Amendments of s. 77. Section seventy-seven of "*The Factories and Shops Acts, 1960 to 1963*" is amended by—

(a) in subsection (1) after the words "leather goods" inserting the symbol and words ", textile goods"; and

(b) in subsection (2) after the words "leather goods" inserting the symbol and words ", textile goods".

16. Amendments of s. 78. Section seventy-eight of "*The Factories and Shops Acts, 1960 to 1963*" is amended by—

(a) in subsection (1)—

(i) in paragraph (i) inserting after the words "leather goods" the symbol and words ", textile goods";

(ii) in paragraph (ii) inserting after the words "leather goods" the symbol and words ", textile goods"; and

(iii) in paragraph (iii)—

(A) inserting after the words "any leather goods" the symbol and words ", textile goods"; and

(B) omitting the words "the leather goods or, as the case may be, other goods" and inserting in their stead the words "the goods concerned"; and

(b) in subsection (2) inserting after the words "leather goods" the symbol and words ", textile goods".

17. New s. 78A inserted. "*The Factories and Shops Acts, 1960 to 1963*," are amended by inserting after section seventy-eight the following section:—

"[78A.] **Special provisions relating to boots and shoes.** (1) The provisions of this section shall be in addition to and not in substitution for or in diminution of the other provisions of this Part.

(2) Any person who manufactures for sale or sells any boots or shoes—

(a) the soles of which consist entirely of leather shall, unless the words "ALL LEATHER SOLE" are conspicuously and legibly stamped upon or impressed on each boot or shoe in the prescribed manner;

(b) the soles of which do not consist entirely of leather shall, unless a statement of the materials comprising the sole is conspicuously and legibly stamped upon or impressed on each boot or shoe in the prescribed manner,

shall be guilty of an offence.

Where the sole consists entirely of rubber the provisions of this subsection shall not apply.

Where the only material in the sole other than leather consists of one or more of the following:—

(a) ordinary fillers of cork or waterproof felt;

(b) canvas used to reinforce the insole;

(c) a prescribed material used as prescribed in the manufacture of shanks;

(d) wood used in the heels of ladies' footwear;

(e) stiffening of such materials and so made as prescribed,

such sole shall be deemed to consist entirely of leather and the provisions of this subsection shall apply and extend accordingly.

(3) Any person who sells or supplies any boots or shoes which do not bear the name of the manufacturer or maker stamped or marked thereon in the manner prescribed shall be guilty of an offence.

(4) Any person who manufactures for sale or sells any boots or shoes the soles of which consist of leather having an admixture of any weighting substance specified in the regulations shall be guilty of an offence.

(5) Any tanner or other person who manufactures or sells or supplies or keeps for sale or use in Queensland any leather having an admixture of any weighting substance specified in the regulations, and which is intended for or capable of being used in the making of soles for boots or shoes, shall be guilty of an offence.

(6) In any prosecution under this section, any person who manufactures boots or shoes shall be deemed to manufacture them for sale, unless the contrary is proved."

18. Amendment of s. 79 (2). Section seventy-nine of "*The Factories and Shops Acts, 1960 to 1963*" is amended by in subsection (2) omitting the words "all leather goods or, as the case may be, other goods" and inserting in their stead the words and symbols "all goods (whether leather goods, textile goods or other goods)".

19. Amendment of s. 80. Section eighty of "*The Factories and Shops Acts, 1960 to 1963*" is amended by omitting subsection (2) and inserting in its stead the following subsections:—

"(2) In respect of an offence against this Part in respect of any leather goods, textile goods or other goods it shall be a defence—

(a) that at the time when the offence is alleged to have been committed the article in question bore the same trade description as had been applied to it when the defendant acquired it and that that trade description appeared to comply with this Part and had not been altered in any way by the defendant, and that on demand made by or on behalf of the complainant, the defendant gave all the information in his power with respect to the person from whom he obtained the article; or

(b) (in the case of boots or shoes)—

(i) that the defendant has received from the person from whom he purchased such boots or shoes, or his duly authorized agent, a guarantee in writing that the same is not mixed, composed or constituted as charged in the complaint; and

(ii) that the defendant had no reason to believe that the same was mixed, composed or constituted as charged in the complaint; and

(iii) that the defendant sold it in the same state as when he purchased it:

Provided however that a guarantee relied on pursuant to this subsection shall be subject to such terms and conditions as may be prescribed by regulations.

(3) Any person who gives any such guarantee which is false in any particular shall, in addition to any penalty for the sale of any boots or shoes in contravention of this Act, be guilty of an offence, unless he proves that when he gave the guarantee he had reason to believe, and did believe, that the statements or descriptions contained therein were true; and it shall be no defence to any prosecution under this Act of the person giving the guarantee that he gave it more than twelve months before the institution of the prosecution.

(4) When the defendant is a servant or agent of the person who purchased the boots or shoes under such a guarantee he shall be entitled to the benefit of this section in the same manner and to the same extent as

his employer or principal would have been if he had been the defendant, unless it is proved that the servant or agent knew or had reason to suspect that the boots or shoes did not conform to the said guarantee.”

20. Amendments of s. 82. Section eighty-two of “*The Factories and Shops Acts, 1960 to 1963*” is amended by—

- (a) in subsection (1)—
 - (i) in paragraph (i) inserting after the words “leather goods” where twice appearing the symbol and words “, textile goods”;
 - (ii) in paragraph (ii) inserting after the words “leather goods” the symbol and words “, textile goods”;
 - (iii) in paragraph (iii) inserting after the words “leather goods” the symbol and words “, textile goods”;
 - (iv) in paragraph (iv) inserting after the words “leather goods” the symbol and words “, textile goods”;
- (b) in subsection (2) after the words “leather goods” inserting the symbol and words “, textile goods”.

21. Amendments of s. 83. Section eighty-three of “*The Factories and Shops Acts, 1960 to 1963*” is amended by—

- (a) inserting after the words “leather goods” the symbol and words “, textile goods”; and
- (b) inserting after the words “or of any portion thereof” the following words—
 - “and in particular—
 - (a) prescribing the manner of marking the soles of boots and shoes in pursuance of section 78A of this Act;
 - (b) prescribing the materials of which and the manner in which shanks and stiffening, not consisting of solid leather, used in the soles of boots and shoes may be manufactured and used;
 - (c) specifying the weighting substances the admixture of which in leather forming part of the soles of boots and shoes is prohibited;
 - (d) the form and the manner in which the trade description shall be applied to textile goods or to specified portions thereof (or, if prescribed, to any covering label, reel or thing used in connection therewith);
 - (e) requiring the trade description to be applied to textile goods or to any portion thereof under this Part to contain such particulars as are prescribed relating to the quality, purity, or weight of the textile goods or portions thereof or the materials of which the textile goods or portions thereof are composed;
 - (f) prohibiting the application to textile goods or any portion thereof or the use in connection with textile goods or any portion thereof of any descriptive matter (and whether additionally to the particulars required to be contained in the trade description to be applied thereto under this Part or separately from that trade description) other than as prescribed to be contained in the trade description to be applied to those textile goods or that portion thereof under this Part;

- (g) declaring textile goods which are to be exempt from the provisions of this Part; and
- (h) prescribing that any regulation or provision of any regulation shall be limited in its application to specified classes of textile goods or that the same shall apply to and with respect to all classes of textile goods other than those specified:

Provided that unless otherwise prescribed every regulation shall be deemed to apply to and with respect to all classes of textile goods."

22. Amendments of s. 87 (1). Subsection (1) of section eighty-seven of the Principal Act is amended by—

(a) omitting the words "the provisions relating to trading hours of *The Industrial Conciliation and Arbitration Acts, 1932 to 1959,*" or any award" and inserting in their stead the words "the provisions of any order under Part VIIA of *The Industrial Conciliation and Arbitration Acts, 1961 to 1964,*" or the provisions relating to trading hours of any award"; and

(b) omitting the words "the provisions relating to trading hours of *The Industrial Conciliation and Arbitration Acts, 1932 to 1959,*" or of any award" and inserting in their stead the words "the provisions of any order under Part VIIA of *The Industrial Conciliation and Arbitration Acts, 1961 to 1964,*" or the provisions relating to trading hours of any award".