

Interpretation

2—(1) In this Law unless the context otherwise requires:—
 "covering" includes any wrapper, cork, bottle, vessel, box, cover, capsule, case, frame or wrapper;
 "Director" means the Director of Commerce and Industry;
 "false trade description" means a trade description which is false or misleading in a material respect as regards the goods to which it is applied and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, which that alteration makes the description false or misleading in a material respect, and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Law.

"goods" means anything which is the subject of trade, manufacture or merchandise;
 "imported goods" does not include—

(a) goods which since the date of their importation have undergone in the Colony any treatment or process resulting in a substantial change in the goods; or

(b) goods produced or manufactured in the Colony which after exportation are brought back into the Colony including any such goods which have undergone abroad any treatment or process not resulting in a substantial change in the goods.

Application of this Law shall be deemed to apply to the goods of a person at the option of the person applying the provision, either—

(a) a definite indication of the country in which the goods were manufactured or produced; or

(b) in the case of goods manufactured or produced in any country in which Her Majesty does not exercise jurisdiction the word "Foreign", and in the case of goods manufactured or produced in any colony in which Her Majesty exercises jurisdiction the word "Empire".

THE STATUTE LAWS OF CYPRUS

No. 35 of 1958.

A LAW TO AMEND AND CONSOLIDATE THE LAW RELATING TO MERCHANDISE MARKS.

HUGH FOOT,
Governor.

[7th November, 1958.]

BE it enacted by His Excellency the Governor and Commander-in-Chief of the Colony of Cyprus as follows:—

1. This Law may be cited as the Merchandise Marks Law, 1958. Short title.

Interpreta-
tion.

2.—(1) In this Law unless the context otherwise requires :—

“ covering ” includes any stopper, cork, bottle, vessel, box, cover, capsule, case, frame or wrapper ;

“ Director ” means the Director of Commerce and Industry ;

“ false trade description ” means a trade description which is false or misleading in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement or otherwise, where that alteration makes the description false or misleading in a material respect, and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this Law ;

“ goods ” means anything which is the subject of trade, manufacture or merchandise ;

“ imported goods ” does not include—

(a) goods which since the date of their importation have undergone in the Colony any treatment or process resulting in a substantial change in the goods ; or

(b) goods produced or manufactured in the Colony which after exportation are brought back into the Colony including any such goods which have undergone abroad any treatment or process not resulting in a substantial change in the goods ;

“ indication of origin ” means, at the option of the person applying the indication, either—

(a) a definite indication of the country in which the goods were manufactured or produced ; or

(b) in the case of goods manufactured or produced in any country in which Her Majesty does not exercise jurisdiction the word “ Foreign ”, and in the case of goods manufactured or produced in any country in which Her Majesty exercises jurisdiction the word “ Empire ” the indication being given, in either case, conspicuously :

Provided that, in the case of goods manufactured or produced in any country in which Her Majesty exercises jurisdiction which have undergone in any particular country abroad any treatment or process resulting in a substantial change in the goods, the indication of origin may at the option of the person applying it be given either by using in conjunction with the word “ Foreign ” or the word “ Empire ”, as the case requires, words descriptive of that treatment or process or by a definite indication that the treatment or process was undergone in that particular country ;

“ label ” includes any band or ticket ;

“ name ” includes any abbreviation of or addition to a name, but where there is on any goods a name which is identical with or a colourable imitation of the name of a place in the Colony or in the United Kingdom that name unless accompanied by the name of the country in which such place is situate shall be

treated for the purposes of this Law as if it were the name of the place in the Colony or in the United Kingdom, as the case may be ;

“ person ”, “ manufacturer ”, “ dealer ” or “ trader ”, “ proprietor ” and “ vendor ” include any body of persons corporate or unincorporate ;

“ sale ”

(a) does not include—

(i) a sale of goods for consignment by the vendor to a person outside the Colony ; or

(ii) a sale of second-hand goods ;

(b) subject as hereinafter provided, includes sale wholesale as well as sale by retail, and the provisions of this Law, and of any Order made thereunder shall have effect accordingly :

Provided that references to exposure for sale in any Order made under section 3 of this Law (unless the Order expressly provides to the contrary) shall not include exposure for sale wholesale by a person being a wholesale dealer ;

(c) does not include the sale of any foodstuffs at any hotel or restaurant or other premises for consumption thereon or the sale of any foodstuffs which have undergone a process of cooking, curing or preserving in the Colony ;

“ trade description ” means any description, statement, or other indication, direct or indirect—

(a) as to the number, quantity, measure, gauge or weight of any goods ; or

(b) as to the standard of quality of any goods, according to a classification commonly used or recognised in the trade ; or

(c) as to the fitness for purpose, strength, performance or behaviour of any goods ; or

(d) as to the place or country in which any goods were made or produced ; or

(e) as to the name of the manufacturer or producer of any goods ; or

(f) as to the mode of manufacturing or producing any goods ; or

(g) as to the material of which any goods are composed ; or

(h) as to any goods being the subject of an existing patent, privilege, or copyright, 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, and the Customs entry relating to any imported goods shall be deemed to be a trade description within the meaning of this Law ;

“ trade mark ” includes any trade mark which, either with or without registration, is protected by law in the Colony or in any country in which Her Majesty exercises jurisdiction or in any other country with the Government of which Her Majesty’s Government in the United Kingdom has for the time being any arrangement for the mutual protection of inventions, designs or trade marks ;

2 of 1951.

“ Trade Marks Law, 1951 ” means the Trade Marks Law, 1951, or any Law amending or substituted for the same, and includes any other Law relating to trade marks for the time being in force in the Colony.

(2) For the purposes of this Law imported goods shall be deemed to have been manufactured in the country in which they last underwent before importation a substantial change by reason of any treatment or process.

(3) The provisions of this Law respecting the application of a false trade description to goods shall extend to the application to goods of any such figures, words, or marks, or arrangement or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose manufacture or merchandise they really are.

(4) The provisions of this Law respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expression false name or initials means as applied to any goods, any name or initials of a person which—

- (a) are not a trade mark, or part of a trade mark ; and
- (b) are identical with, or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials ; and
- (c) are either those of a fictitious person or of some person not *bona fide* carrying on business in connection with such goods.

(5) Notwithstanding anything in the said definition of “ false trade description ”, no trade mark within the meaning of the Trade Marks Law, 1951, or part of such a trade mark, shall by virtue of the foregoing sub-sections 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) at the commencement of this Law the trade mark either is registered under the Trade Marks Law, 1951, 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 the Trade Marks Law, 1951, 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.

(6) Without prejudice to the generality of the definition of trade description (to whichever of the matters mentioned in the definition of " trade description " it relates) in sub-section (1) of this section, a trade description shall be deemed for the purposes of this Law 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.

3.—(1) The Governor in Council may, by Order, prohibit the sale or the exposure for sale in the Colony of any imported goods of any class or description unless they bear an indication of origin and if any such goods required by any such Order to bear an indication of origin at the time of importation do not at that time bear such an indication, they shall be deemed to be goods which are prohibited to be imported under section 13 of this Law :

Power to
require
indication
of origin.

Provided that—

(a) subject to compliance with such conditions as to security for the re-exportation of the goods as the Comptroller may impose, an Order under this section shall not apply to goods imported for exportation after transit through the Colony by way of transshipment or to goods declared on importation to be for re-exportation ; and

(b) nothing in this sub-section shall be taken to be in derogation of anything contained in the said section 13.

(2) An Order under this section shall specify in every case—

(a) the manner in which the indication of origin is to be applied to the goods ; and

(b) the date on which the Order is to come into force (not being a date earlier than three months from the date of the making of the Order, except in the case of an Order revoking a previous Order either entirely or as respects some of the goods to which that Order relates, or an Order made for amending a previous Order in consequence of a direction having been given with respect to that Order under the provisions of this Law relating to provisional exemptions) ; and

(c) whether the goods are to bear an indication of origin at the time of importation or of exposure for sale wholesale, and any such Order may contain such other provisions as appear to the Governor to be necessary or expedient for carrying this section into effect.