



Harris Tweed Act 1993

1993 CHAPTER xi

An Act to make provision for the establishment of a Harris Tweed Authority to promote and maintain the authenticity, standard and reputation of Harris Tweed; for the definition of Harris Tweed; for preventing the sale as Harris Tweed of material which does not fall within the definition; for the Authority to become the successor to The Harris Tweed Association Limited; and for other purposes incidental thereto. [20th July 1993]

WHEREAS—

- (1) The production of the handwoven tweed known as Harris Tweed provides the main source of work within the private sector in the Outer Hebrides and it is vital to the economy of those islands that the integrity, distinctive character and worldwide renown of Harris Tweed should be maintained:
- (2) Tweed had been woven in the Outer Hebrides for centuries, but it was not until the nineteenth century that it became available to a wider market, and in 1909 The Harris Tweed Association Limited (hereinafter called “the Company”) was formed as a company limited by guarantee in order to promote, maintain and advertise the reputation and standard of quality of Harris Tweed:
- (3) In the same year the Company registered the trade mark incorporating an orb surmounted by a Maltese cross which has come to symbolise Harris Tweed and one of its functions is to ensure that this mark is borne only by material which can genuinely be described, and which the Company has authenticated, as such:
- (4) Changes were made in 1978 to the constitution of the Company but it has become clear that a private company is no longer a satisfactory body fully to safeguard the Harris Tweed industry and to secure for the future its goodwill and enterprise, and that the achievement of those objects requires the establishment of a statutory authority as successor to the Company, the enactment of provisions for the definition of Harris Tweed and the enactment of provisions which allow proceedings to be taken by the Authority and others against those who falsely represent material as being Harris Tweed:
- (5) The Western Isles Islands Council (hereinafter called “the Council”) shares the desire of the Company that those objects should be achieved because, as the council for

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the local government area which comprises the Outer Hebrides, it has an interest in preserving and furthering the welfare and prospects of employment of the inhabitants:

- (6) In relation to the promotion of the Bill for this Act the Western Isles Islands Council have complied with the requirements of section 82 of the Local Government (Scotland) Act 1973:
- (7) It is expedient that such provisions should be enacted as are contained in this Act:
- (8) The objects of this Act cannot be attained without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted, and be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

PRELIMINARY

1 Short title, commencement and extent

- (1) This Act may be cited as the Harris Tweed Act 1993.
- (2) The provisions of this Act, other than those contained in this section, shall come into force at the end of the period of three months beginning with the date on which the Act is passed.
- (3) This Act except section 10 thereof does not extend to Northern Ireland.

2 Interpretation

In this Act unless the subject or the context otherwise requires—

- “the Act of 1938” means the Trade Marks Act 1938;
- “the Authority” means the Harris Tweed Authority constituted by Part II of this Act;
- “the Company” means The Harris Tweed Association Limited;
- “the Council” means the Western Isles Islands Council;
- “Harris Tweed” has the meaning assigned to it by section 7 of this Act;
- “Harris Tweed trade mark” means a mark registered, or deemed to have been registered, under any enactment for the purpose of distinguishing goods certified as being Harris Tweed from goods not so certified;
- “the Outer Hebrides” means the islands of Harris, Lewis, North Uist, Benbecula, South Uist and Barra and their several purtenances;
- “Registrar” means the Comptroller-General of Patents, Designs and Trade Marks;
- “the sheriff principal” means the sheriff principal for the time being of the sheriffdom of Grampian, Highland and Islands, or other the sheriffdom which for the time being includes the Outer Hebrides;

references to the definition of Harris Tweed are to the definition which, for the purposes of this Act, has effect for the time being by virtue of sections 7 and 8 of this Act;

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references to a person involved in the Harris Tweed industry are references to any person who is engaged, or has any financial interest (other than merely as an investor holding not more than three per centum of the issued investments of any class in a public company), in—

- (a) the supplying of wool to be used in the production of material falling within the definition of Harris Tweed;
- (b) any of the processes (from dyeing and spinning onwards) involved in such production;
- (c) the submission of material for authentication as Harris Tweed;
- (d) any of the processes involved in the production of garments or other articles made wholly or partly from material falling within the definition of Harris Tweed; or
- (e) the sale of such material or such articles.

PART II

THE HARRIS TWEED AUTHORITY

3 Creation and duties of Authority

- (1) There shall be a body, having its seat in the Outer Hebrides in Scotland and known as the Harris Tweed Authority, charged with the general duty of furthering the Harris Tweed industry as a means of livelihood for those who live in the Outer Hebrides by safeguarding the standard and reputation of, promoting awareness in all parts of the world of, and disseminating information about, material falling within the definition of Harris Tweed and articles made from it; and charged to that end with particular duties, namely—
 - (a) a duty to consider and keep under review in respect of any Harris Tweed trade mark the desirability of applying for the alteration of regulations approved under the provisions of Schedule 1 to the Act of 1938 (or for the approval or alteration of any regulations replacing such regulations under any enactment replacing those provisions) so as to specify characteristics to be possessed by a tweed in addition to those set out in paragraph (a) of section 7 below for it to qualify as Harris Tweed; and
 - (b) a duty by means of proceedings taken under the provisions of Part IV of this Act and in any other appropriate ways, to take such steps as are practicable to ensure that material which does not comply with the definition of Harris Tweed is not represented as being Harris Tweed.
- (2) The Schedule to this Act shall have effect with respect to the constitution and proceedings of, and other matters relating to, the Authority.
- (3) The requirement in subsection (1) above that the Authority shall have its seat in the Outer Hebrides in Scotland is a requirement—
 - (a) that it shall maintain its official address there for the purpose of receiving notices or other communications; and
 - (b) that its central management and control shall be exercised there.

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4 Financing of Authority

- (1) The Authority may, subject to and in accordance with the provisions of this section, make charges for the use of a Harris Tweed trade mark.
- (2) Charges made under this section shall be of such amounts as appear to the Authority to be necessary for meeting, or for establishing or maintaining a reserve fund to meet, the expenses of the Authority (outwith as well as within the United Kingdom) in authenticating material as Harris Tweed and in carrying out its other functions.
- (3) The Authority shall notify the Registrar in writing of the amounts of charges it intends to make and the Registrar may, within one month of being so notified, reduce or disallow any such amounts if in his opinion they would be excessive.
- (4) Upon the expiration of one month from the notification to the Registrar under subsection (3) above of the amounts of charges intended to be made, they shall, if not disallowed and subject to any reduction by the Registrar, come into force.
- (5) If the Authority, in order to facilitate the use by any person of a Harris Tweed trade mark or other mark of which the Authority is the proprietor, supplies labels which incorporate the mark, it may make a charge (additional to those authorised under subsection (1) above) to cover the cost of the production and supply of the labels.
- (6) The Authority shall keep available, for inspection and copying, at the premises which constitute its official address and at any other premises in the Outer Hebrides which are under its control, a notice of the amounts of charges in force for the time being under this section.

5 General and specific powers

In addition to any powers conferred elsewhere in this Act and without prejudice to any limitations imposed on those powers, the Authority may do anything, whether in the United Kingdom or in any other part of the world, which is calculated to facilitate or is incidental or conducive to the performance of the duties set out in section 3 of this Act and (without prejudice to the generality of the foregoing words) shall in particular have power—

- (a) to publicise or join in publicising, through advertisements or otherwise, the nature, origin and qualities of material falling within the definition of Harris Tweed;
- (b) to instigate or join in instigating, and to meet or contribute to the cost of, research into, and the provision and development of technology for use in or in connection with, the production of such material;
- (c) to register and maintain in any part of the world intellectual property rights including patents, trade marks and other marks and designs, and to authorise the user of such intellectual property on such lawful terms and conditions as the Authority may think fit;
- (d) to take or join in taking such steps, including legal proceedings, as may lawfully be taken in any jurisdiction in the world in order—
 - (i) to defend against infringement or likely infringement any intellectual property rights so registered and any other intellectual property; and
 - (ii) to prevent, or put a stop to, any person selling, exposing or offering for sale or having in his possession for the purposes of sale—

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- (aa) any material which is represented as Harris Tweed but is not Harris Tweed; or
- (bb) any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed when it has not been so made;
- (e) to promote or establish, or to join in promoting or establishing, bodies corporate or unincorporate in any part of the world;
- (f) to receive grants and to accept gifts of money or other property to be used in meeting its expenses or in furthering its objects or some one or more of them;
- (g) to hold, acquire, take on lease, feu, sell, hire out, lease or otherwise dispose of immoveable or moveable property or any interest therein;
- (h) to build, alter, improve and equip premises for its own occupation or use or for any other purpose connected with its functions under this Act;
- (i) to act directly or through an attorney or other agent, or itself to act as agent for another person and, without prejudice thereto, to arrange for the discharge of any of its functions, and prescribe duties to be performed, by a committee or an employee upon such terms as it thinks fit and with respect to any function so delegated or duty so prescribed to delegate to the committee or employee such of its powers as are requisite for discharging the function or performing the duty;
- (j) to borrow money and grant security over or pledge, mortgage or charge any of its property for the purpose of meeting the expenses incurred or to be incurred in discharging its functions under this Act;
- (k) to establish and maintain a reserve fund for meeting such expenses;
- (l) to invest any money comprised in the reserve fund, and any other money not required for immediate use, in or upon such investments, securities or property as it thinks fit; and
- (m) to promote or otherwise seek, or to oppose, legislation in the United Kingdom or any other part of the world.

6 Accounts

- (1) It shall be the duty of the Authority—
 - (a) to keep proper accounts and proper records in relation to the accounts; and
 - (b) to prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall give a true and fair view of the state of the Authority's affairs at the end of the financial year and of its income and expenditure in that year.
- (3) The accounts shall be audited by a person to be appointed in respect of each financial year by the Authority and the auditor shall be provided by the Authority with copies of the statement of accounts.
- (4) The provisions of Part II of the Companies Act 1989 (which deal with the eligibility of persons for appointment as company auditors) shall apply in relation to the Authority as if the Authority were a company within the meaning of those provisions and as if a person appointed as auditor of the Authority were, within their meaning, a company auditor.
- (5) When it receives the auditor's report on its accounts for any financial year, the Authority shall send the Council copies of the accounts and of the report.