

MALTA

ATT Nru. XXII ta' l-1986

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex jipprovdni għal dispożizzjonijiet li jipprojbixxu deskrizzjoni hażina ta' oggetti, servizzi, akkomodazzjoni u faċilitajiet provduti għall-kummerċ; li jipprojbixxu tagħrif falz jew indikazzjoni qarrieqa dwar prezzijiet ta' oggetti, u dwar hwejjeg oħra li għandhom x'jaqsmu ma' dan jew konnessi miegħu.

ACT No. XXII of 1986

AN ACT enacted by the Parliament of Malta.

AN ACT to make provisions prohibiting misdescriptions of goods, services, accommodation and facilities provided in the course of trade; to prohibit false information or misleading indications as to the price of goods and for other matters connected therewith or ancillary thereto.

Naghti l-kunsens tiegħi.

(L.S.)

AGATHA BARBARA
President

13 ta' Ġunju, 1986

ATT Nru. XXII ta' l-1986

ATT biex jipprovdi għal dispożizzjonijiet li jipprojbixxu deskrizzjoni hażina ta' oġġetti, servizzi, akkomodazzjoni u faċilitajiet provduti għall-kummerċ; li jipprojbixxu tagħrif falz jew indikazzjoni qarrieqa dwar prezzijiet ta' oġġetti, u dwar hwejjeġ oħra li għandhom x'jaqsmu ma' dan jew konnessi miegħu.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità ta' l-istess, hareġ b'ligi dan li ġej:—

1. (1) Dan l-Att jista' jissejjah l-Att ta' l-1986 dwar Deskrizzjonijiet Kummerċjali.

Titolu fil-qosor
u bidu fis-sehh.

(2) Dan l-Att għandu jibda jsehh f'dik id-data li l-Ministru responsabbli għall-kummerċ jista' jstabbilixxi b'avviz fil-Gazzetta, u dati differenti jistgħu jiġu hekk stabbiliti għal dispożizzjonijiet differenti u għal għanijiet differenti ta' l-Att.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtieġx xort'oħra —

Tifsir.

“reklam” tinkludi katalgu, ċirkolari u lista tal-prezzijiet;

“organizzazzjoni tal-konsumaturi” tfisser korp ta' persuni magħruf taħt id-dispożizzjonijiet ta' l-Att ta' l-1981 għall-Protezzjoni tal-Konsumatur;

Att XXIX
ta' l-1981

“oġġetti” tfisser kull haġa offerta għall-bejgħ fil-kummerċ f'Malta;

“Ministru” tfisser il-Ministru responsabbli għall-kummerċ;

“persuna” tinkludi wkoll għaqda korporata mwaqqfa b'ligi u dipartiment tal-Gvern;

“post” tinkludi kull post u kull posta jew vettura.

(2) Għall-finijiet ta' dan l-Att deskrizzjoni jew dikjarazzjoni kummerċjali pubblikata f'xi gazzetta, ktieb jew perjodiku, jew f'xi film jew xandira bis-smiegh jew bit-televiżjoni ma titqiesx li hi deskrizzjoni kummerċjali applikata jew dikjarazzjoni magħmula fil-kummerċ jew fin-negozju kemm-il darba ma tkunx reklam jew parti minn reklam.

Projbizzjoni ta' deskrizzjonijiet kummerċjali foloz.

3. (1) Kull persuna li, fil-kummerċ jew fin-negozju —
- (a) tapplika deskrizzjoni kummerċjali falza għal xi oġġetti; jew
 - (b) tipprovdi jew toffri li tipprovdi xi oġġetti li għalihom hija applikata deskrizzjoni kummerċjali falza,

tkun, skond id-dispożizzjonijiet ta' dan l-Att, hatja ta' reat.

(2) L-artikoli minn 4 sa 8 ta' dan l-Att għandu jkollhom effett għall-finijiet ta' dan l-artikolu u għat-tifsir ta' espressjonijiet użati f'dan l-artikolu, kull fejn jinsabu f'dan l-Att.

Deskrizzjoni kummerċjali.

4. (1) Deskrizzjoni kummerċjali hija indikazzjoni, diretta jew indiretta, ikun x'ikun il-mezz, ta' xi wahda mill-ħwejjeġ li ġejjin dwar xi oġġetti jew partijiet minn oġġetti, jiġifieri —

- (a) kwantità, daqs jew qies;
- (b) metodu ta' manifattura, produzzjoni, proċessar jew rikondizzjoni;
- (c) kompożizzjoni;
- (d) adattament għal għan, saħħa, funzjonament, imġieba jew preċiżjoni;
- (e) kull karatteristika fiżika li mhix inkluża fil-paragrafi ta' qabel dan;
- (f) provi minn xi persuna u r-riżultati tagħhom;
- (g) approvazzjoni minn xi persuna jew konformità ma' xorta approvata minn xi persuna;
- (h) post jew data ta' manifattura, produzzjoni, proċessar jew rikondizzjoni;
- (i) il-persuna li tkun immanifatturat, iproduċiet, ipproċessat jew irrikondizzjonat;
- (j) storja oħra, inkluż proprjetarju ta' qabel jew użu preċedenti;
- (k) garanzija dwar tiswija jew sostituzzjoni;
- (l) data ta' skadenza jew ħajja fuq l-ixkaffa.

(2) Il-ħwejjeġ speċifikati fis-subartikolu (1) ta' dan l-artikolu għandhom dwar xi animal, jitqiesu li jinkludu sess, razza jew taħlita ta' razez, fertilità u saħħa.

(3) F'dan l-artikolu "kwantità" tinkludi tul, wisgħa, għoli, area, volum, kapaċità, piż u numru.

Deskrizzjoni kummerċjali falza.

5. (1) Deskrizzjoni kummerċjali falza hija deskrizzjoni kummerċjali li hi falza fi grad rilevanti.

(2) Deskrizzjoni kummerċjali li, għalkemm ma tkunx falza tkun qarrieqa, jiġifieri, x'aktarx tittiehed għal dik l-indikazzjoni ta' xi

wahda mill-hwejjeġ speċifikati fl-artikolu 4 ta' dan l-Att li tkun falza fi grad rilevanti, titqies li hija deskrizzjoni kummerċjali falza.

(3) Kull haġa li, għalkemm ma tkunx deskrizzjoni kummerċjali x'aktarx tittiehed bhala indikazzjoni ta' xi wahda minn dawk il-hwejjeġ u, bhala indikazzjoni hekk, tkun falza fi grad rilevanti, titqies li hi deskrizzjoni kummerċjali falza.

(4) Indikazzjoni falza, jew kull haġa li x'aktarx tittiehed bhala indikazzjoni li hi falza, li xi oġġetti jkunu skond *standard* speċifikat jew magħruf minn xi persuna jew li tiftiehem li hi approvata minn xi persuna għandha titqies li hi deskrizzjoni falza, jekk ma jkun hemm ebda persuna bħal dik jew ebda *standard* hekk speċifikat, magħruf jew mifhum.

6. (1) Persuna tapplika deskrizzjoni kummerċjali għal oġġetti jekk —

Applikazzjoni ta' deskrizzjoni kummerċjali.

(a) twahhalha jew tehmizha ma' jew b'xi mod timmarka fuq jew tinkorporaha ma' —

(i) l-oġġetti nnifishom, jew

(ii) xi haġa li fiha, fuqha jew magħha l-oġġetti jiġu provduti; jew

(b) tqieghed l-oġġetti f'xi haġa, fuq xi haġa jew ma' xi haġa li magħha d-deskrizzjoni tkun imwahnha jew mehmuża ma', immarkata fuq jew inkorporata ma', jew tqieghed xi haġa ma' l-oġġetti; jew

(c) tuża d-deskrizzjoni kummerċjali b'xi mod li x'aktarx jitqies bhala li jirreferi għall-oġġetti.

(2) Dikjarazzjoni verbali tista' tammonta għal użu ta' deskrizzjoni kummerċjali.

(3) Meta oġġetti jiġu provduti fuq talba li fiha tintuża deskrizzjoni kummerċjali u ċ-ċirkostanzi jkunu hekk li jkun xieraq li tifhem li l-oġġetti jkunu pprovduti bhala oġġetti li jaqblu ma' dik id-deskrizzjoni kummerċjali, il-persuna li tipprovdwi l-oġġetti għandha titqies li tkun applikat dik id-deskrizzjoni kummerċjali għall-oġġetti.

7. (1) Id-dispożizzjonijiet li ġejjin ta' dan l-artikolu għandu jkollhom effett meta f'reklam tintuża deskrizzjoni kummerċjali dwar xi klassi ta' oġġetti.

Deskrizzjonijiet kummerċjali użati f'reklami.

(2) Id-deskrizzjoni kummerċjali għandha titqies li tirreferi għall-oġġetti kollha bil-klassi, sew jekk teżisti jew ma teżistix fil-hin li jiġi ppublikat ir-reklam —

(a) sabiex jiġi stabbilit jekk ir-reat ikunx sar taht il-paragrafu (a) tas-subartikolu (1) ta' l-artikolu 3 ta' dan l-Att; u

(b) meta l-oġġetti tal-klassi jkunu provduti jew offerti li jiġu provduti minn persuna li tippublika jew turi r-reklam, ukoll sabiex jiġi stabbilit jekk ir-reat ikunx sar taht il-paragrafu (b) tas-subartikolu (1) ta' l-imsemmi artikolu 3.

(3) Sabiex jiġi stabbilit għall-finijiet ta' dan l-artikolu jekk xi oġġetti jkunux ta' klassi li għaliha tirreferi deskrizzjoni kummerċjali

wżata f'reklam, għandhom jitqiesu mhux biss il-forma u l-kontenut tar-reklam iżda wkoll il-hin, il-post, il-mod u l-frekwenza tal-pubblikazzjoni tiegħu u l-hwejjeġ l-oħra kollha li jagħmluh jew ma jagħmluhx hekk li x'aktarx persuna li lilha jiġu provduti l-oġġetti taħseb li l-oġġetti jkunu tal-klassi li għaliha tkun użata d-deskrizzjoni kummerċjali fir-reklam.

Offerta għal provvista.

8. Persuna li turi l-oġġetti li jkollha bi provvista jew li jkollha fil-pussess tagħha biex tippovdi titqies li qed toffri biex tippovdihom.

Ordnijiet dwar tifsir.

9. Meta fil-fehma tal-Ministru —

(a) ikun fl-interess ta' persuni li lilhom xi oġġetti huma provduti; jew

(b) ikun fl-interess ta' persuni li jesportaw xi oġġetti u mhux kontra l-interess tal-persuni li lilhom jiġu provduti f'Malta dawk l-oġġetti;

li xi espressjonijiet użati dwar l-oġġetti għandhom jiftiehem bħala li għandhom tifsir definit, il-Ministru jista' b'ordni jagħti dak it-tifsir jew —

(i) lil dawk l-espressjonijiet meta wżati waqt kummerċ jew negozju bħala, jew bħala parti minn, deskrizzjoni kummerċjali applikata għall-oġġetti; jew

(ii) għal dawk l-espressjonijiet meta wżati f'dawk iċ-ċirkostanzi li jistgħu jiġu speċifikati fl-ordni;

u meta jingħata tifsir bħal dak lil espressjoni din titqies għall-finijiet ta' dan l-Att li għandha dak it-tifsir meta wżata kif imsemmi fil-paragrafu (i) jew, skond il-każ, il-paragrafu (ii) ta' dan l-artikolu.

Ordnijiet dwar marki.

10. (1) Meta fil-fehma tal-Ministru jkun meħtieġ jew spedjenti fl-interess tal-persuni li lilhom jiġu provduti xi oġġetti li l-oġġetti għandhom ikunu immarkati jew ikollhom magħhom xi tagħrif (sew jekk jammonta għal deskrizzjoni kummerċjali jew jinkludiha) jew istruzzjoni dwar l-oġġetti, il-Ministru jista', bla ħsara għad-dispożizzjonijiet ta' dan l-Att, b'ordni jimponi htigiet biex jiġi żgurat li l-oġġetti jkunu hekk immarkati jew ikollhom it-tagħrif magħhom, u jirregola u jipprojbixxi l-provvista ta' oġġetti li dwarhom il-htigiet ma jitharsux; u l-htigiet jistgħu jestendu għall-forma u l-mod kif għandu jingħata t-tagħrif jew l-istruzzjoni.

(2) Meta jkun fis-seħħ xi ordni magħmul taħt dan l-artikolu dwar oġġetti ta' xi deskrizzjoni, kull persuna li, f'xi kummerċ jew negozju, tippovdi jew toffri li tippovdi oġġetti ta' dik id-deskrizzjoni bi ksur ta' l-ordni tkun, skond id-dispożizzjonijiet ta' dan l-Att, haġja ta' reat.

(3) Ordni taħt dan l-artikolu jista' jipprovdi b'mod differenti għal ċirkostanzi differenti u jista', fil-każ ta' oġġetti provduti f'ċirkostanzi fejn it-tagħrif jew l-istruzzjoni meħtieġa bl-ordni ma jitwasslux hliet wara l-konsenja, jeħtieġ li t-tagħrif jew l-istruzzjoni shiha jew parti minnhom jiġu murija hdejn l-oġġetti.

Tagħrif, eċċ li jingħata f'reklami.

11. (1) Meta fil-fehma tal-Ministru jkun meħtieġ jew spedjenti li fl-interess tal-persuna li lilha għandhom jiġu provduti xi oġġetti li xi deskrizzjoni ta' reklam ta' l-oġġetti għandu jkollha fiha jew tirreferi għal

xi tagħrif (sew jekk jammonta għal deskrizzjoni kummerċjali u sew jekk le) dwar l-oġġetti, il-Ministru jista', bla hsara għad-dispożizzjonijiet ta' dan l-Att, b'ordni jimponi l-htigiet dwar id-dhul ta' dak it-tagħrif, jew ta' indikazzjoni tal-mezz li bih jista' jinkiseb, f'dik id-deskrizzjoni tar-reklam ta' l-oġġetti, kif jista' jiġi speċifikat fl-ordni.

(2) Ordni taht dan l-artikolu jista' jispeċifika l-forma u l-mod li bih xi tagħrif bħal dak jew indikazzjoni bħal dik jistgħu jidhlu f'reklam ta' xi deskrizzjoni u jista' jagħmel dispożizzjonijiet differenti għal ċirkostanzi differenti.

(3) Meta reklam ta' xi oġġetti li jiġu provduti f'xi kummerċ jew negozju jonqos li jhares xi htieġa mposta b'dan l-artikolu, kull persuna li tippubblika r-reklam tkun, skond id-dispożizzjonijiet ta' dan l-Att, hatja ta' reat.

12. Htieġa mposta b'ordni taht l-artikolu 10 jew l-artikolu 11 ta' dan l-Att dwar xi oġġetti ma tkunx limitata għal oġġetti fabbrikati jew prodotti f'xi pajjiż wieħed jew f'xi pajjiż wieħed fost numru ta' pajjiżi jew għal oġġetti fabbrikati jew prodotti barra xi pajjiż wieħed jew iktar, kemm-il darba —

Dispożizzjonijiet
supplimentari
għall-artikoli
10 u 11.

(a) ma tkunx imposta dwar deskrizzjoni ta' oġġetti f'liema każ il-Ministru jkun sodisfatt li l-interess tal-persuni f'Malta li lilhom jiġu provduti oġġetti ta' dik id-deskrizzjoni jkun imħares b'mod xieraq jekk il-htieġa tiġi hekk limitata; u

(b) il-Ministru jkun sodisfatt li l-ordni jkun jaqbel ma' l-obbligi internazzjonali ta' Malta.

13. (1) Jekk xi persuna li toffri li tipprovdi oġġetti jew servizzi ta' xi deskrizzjoni tagħti, b'xi mezz ikun li jkun, xi indikazzjoni falza fis-sens li l-prezz li bih l-oġġetti jew is-servizzi qed jiġu offerti jkun daqs jew inqas minn —

Indikazzjonijiet
foloz jew
qarrieqa dwar
il-prezz ta' oġġetti.

(i) il-prezz stabbilit mill-fabbrikant, jew mill-importatur jew minn xi awtorità għal dawk l-oġġetti jew servizzi; jew

(ii) il-prezz li bih l-oġġetti jew servizzi, jew oġġetti jew servizzi ta' l-istess deskrizzjoni kienu qabel offerti minnha;

jew ikun inqas minn dak il-prezz b'ammont speċifikat, tkun, skond id-dispożizzjonijiet ta' dan l-Att, hatja ta' reat.

(2) Jekk xi persuna li toffri li tipprovdi xi oġġetti jew servizzi tagħti, b'xi mezz ikun li jkun, xi indikazzjoni li x'aktarx tittiehed bhala indikazzjoni li l-oġġetti jew li s-servizzi qed jiġu offerti bi prezz inqas minn dak li fil-fatt qed jiġi offert tkun, skond id-dispożizzjonijiet ta' dan l-Att, hatja ta' reat.

(3) Għall-finijiet ta' dan l-artikolu indikazzjoni li l-oġġetti jew servizzi kienu qabel qed jiġu offerti bi prezz oghla jew bi prezz partikolari —

(a) għandha titqies bhala indikazzjoni li ġew offerti mill-persuna li tagħti l-indikazzjoni kemm-il darba ma jiġix espressament dikjarat li ġew hekk offerti minn haddiehor u ma kienx espress jew mifhum li dawn kienu offerti, jew setgħu ġew hekk offerti, ukoll minn dik il-persuna; u

(b) għandha titqies, kemm-il darba ma jkunx espress kuntarju, bhala indikazzjoni li ġew hekk offerti matul is-sitt xhur ta' qabel għal perijodu kontinwu ta' mhux inqas minn tmienja u ghoxrin jum.

Rappreżentazzjoni falza dwar premju, *award* jew approvazzjoni.

14. (1) Jekk xi persuna, f'xi kummerè jew negozju taghti, b'xi mezz ikun li jkun xi indikazzjoni falza, diretta jew indiretta, li xi oġġetti jew servizzi provduti minnha jew xi metodi wżati minnha huma tax-xorta li jkunu ngħataw xi premju jew xi *award*, jew ikunu ta' xorta provduti lil xi persuna jew approvati minnha tkun, skond id-dispożizzjonijiet ta' dan l-Att, hatja ta' reat.

(2) Jekk xi persuna waqt xi kummerè jew negozju, tuża mingħajr l-awtorità xierqa xi disinn jew emblema li turi xi *award*, premju jew approvazzjoni jew xi haġa li hekk tixbah dak id-disinn jew l-emblema li x'aktarx tqarraq tkun, skond dan l-Att, hatja ta' reat.

Dikjarazzjonijiet foloz jew qarrieqa.

15. (1) Ikun reat li xi persuna f'xi kummerè jew negozju —

(a) tagħmel dikjarazzjoni li tkun taf li hi falza; jew

(b) bi traskuraġni tagħmel dikjarazzjoni li hi falza, dwar xi waħda mill-hwejjeġ li ġejjin, jiġifieri —

(i) l-ghoti f'xi kummerè jew negozju ta' xi servizzi, akkomodazzjoni jew faċilitajiet;

(ii) ix-xorta ta' xi servizzi, akkomodazzjoni jew faċilitajiet provduti f'xi kummerè jew negozju;

(iii) iż-żmien li fih, il-mod li bih jew il-persuni li jipprovdu xi servizzi, akkomodazzjoni jew faċilitajiet;

(iv) l-eżami, l-approvazzjoni jew l-istima minn xi persuna ta' xi servizzi, akkomodazzjoni jew faċilitajiet provduti; jew

(v) il-qagħda u l-amenitajiet ta' xi akkomodazzjoni hekk provduta.

(2) Għall-finijiet ta' dan l-artikolu —

(a) kull haġa (sew jekk tkun saret dikjarazzjoni jew le dwar xi waħda mill-hwejjeġ speċifikati fis-subartikolu ta' qabel dan) li x'aktarx tittiehed bħala dikjarazzjoni għal xi waħda minn dawk il-hwejjeġ li tkun falza titqies li hi dikjarazzjoni falza dwar dik il-haġa; u

(b) dikjarazzjoni magħmula mingħajr hsieb jekk hijiex vera jew falza titqies li tkun saret bi traskuraġni, sew jekk il-persuna li tagħmilha jkollha raġunijiet li taħseb li hi falza u sew jekk le.

(3) Dwar xi servizzi li jikkonsistu fl-applikazzjoni jew jincludu l-applikazzjoni ta' xi trattament jew proċess jew fl-egħmil ta' xi tiswiġa, il-hwejjeġ speċifikati fis-subartikolu (1) ta' dan l-artikolu għandhom jitqiesu li jinkludu l-effett tat-trattament, proċess jew tiswiġa.

(4) F'dan l-artikolu "falz" tfisser falz fi grad rilevanti u "servizzi" ma tinkludi ebda haġa magħmula taht kuntratt ta' impieg, jew apprentistat jew kuntratt iehor simili.

Ordnijiet li jfissru espressjonijiet għall-finijiet ta' l-artikolu 15.

16. Meta fil-fehma tal-Ministru jkun fl-interess tal-persuni li għalihom jiġu provduti f'kummerè jew negozju xi servizzi, akkomodazzjoni jew faċilitajiet li xi espressjonijiet użati dwarhom għandhom jiftiehm bħala li għandhom tifsir definit, il-Ministru jista' b'ordni jaghti dawk it-tifsiriet lil dawk l-espressjonijiet meta wżati bħala, jew bħala parti minn, dawk id-dikjarazzjonijiet kif imsemmija fl-artikolu 15 ta' dan l-Att dwar dawk is-servizzi, akkomodazzjoni jew faċilitajiet; u meta dak it-tifsir ikun hekk mogħti lil espressjoni din għandha titqies għall-finijiet ta' dan l-Att li għandha dak it-tifsir meta hekk użata.

17. Meta deskrizzjoni kummerċjali falza tkun applikata għal xi oġġetti barra minn Malta u l-indikazzjoni falza, jew waħda mill-indikazzjonijiet foloz, mogħtija, jew li x'aktarx jitqiesu bħala li ngħataw, tkun indikazzjoni tal-post tal-fabbrikazzjoni, produzzjoni, ipproċessar jew rikondizzjonar ta' l-oġġetti jew xi parti minnhom, l-oġġetti m'għandhomx jiġu mportati f'Malta.

Projbizzjoni ta' importazzjoni ta' oġġetti li jkollhom indikazzjoni falza ta' origini.

18. Bla hsara għal kull responsabbiltà taħt xi liġi oħra, persuna misjuba hatja ta' reat taħt dan l-Att, barra minn reat taħt l-artikoli 23 jew 24 ta' dan l-Att, tehel meta tinstab hatja multa ta' mhux inqas minn mitt lira Maltija iżda mhux iżjed minn hames mitt lira Maltija jew prigunerija għal żmien ta' mhux iżjed minn sitt xhur jew dik il-multa u prigunerija flimkien.

Piena għal reati.

19. Meta għemil jew ommissjoni li jikkostitwixxu reat taħt dan l-Att li jkunu magħmula jew ommessi minn xi persuna jkunu minhabba l-għemil jew nuqqas ta' xi persuna oħra, dik il-persuna l-oħra tkun hatja tar-reat, u persuna tista' tiġi akkużata u misjuba hatja tar-reat bis-saħħa ta' dan l-artikolu sew jekk jittieħdu proċedimenti kontra l-persuna l-ewwel imsemmija u sew jekk le.

Reati minhabba htija ta' persuni oħra.

20. (1) F'kull proċedimenti għal reat taħt dan l-Att, u bla hsara għas-subartikolu (2) ta' dan l-artikolu, tkun difiża li persuna akkużata tipprova —

Difiża ta' żball jew aċċident.

(a) li l-għemil tar-reat ikun minhabba żball jew għax tkun qagħdet fuq tagħrif mogħti lilha jew minhabba l-għemil jew in-nuqqas ta' persuna oħra, jew minhabba aċċident jew xi kawża oħra li ma tkunx taħt il-kontroll tagħha; u

(b) li tkun hadet il-prekawzjonijiet xierqa kollha u eżerċitat id-diligenza xierqa kollha biex tevita l-għemil ta' reat bħal dak minnha jew minn kull persuna taħt il-kontroll tagħha.

(2) Jekk f'xi każ id-difiża provduta bis-subartikolu ta' qabel dan timplika l-allegazzjoni li l-għemil tar-reat kien minhabba l-għemil jew nuqqas ta' xi persuna oħra jew li persuna tkun qagħdet fuq tagħrif mogħti lilha minn persuna oħra, il-persuna akkużata ma jkollhiex jedd tistrieħ fuq dik id-difiża kemm-il darba minnufih wara li tinqara l-akkuża ma tkunx innotifikat lill-prosekutur b'avviż bil-miktub li bih jagħti dak it-tagħrif u li dak il-ħin ikun fil-pussess tagħha li jidentifika jew iġhin biex jidentifika lil dik il-persuna l-oħra.

(3) F'kull proċedimenti taħt dan l-Att għal reat dwar provvista jew offerta għal provvista ta' oġġetti li għalihom tiġi applikata deskrizzjoni kummerċjali falza tkun difiża għall-persuna akkużata li tipprova li ma kenitx taf, u ma setgħetx b'diligenza xierqa tiżgura li l-oġġetti ma kienux jaqblu mad-deskrizzjoni jew li d-deskrizzjoni kienet ġiet applikata għall-oġġetti.

21. Fi proċedimenti għal reat taħt dan l-Att li jkun sar bil-pubblikazzjoni ta' reklam tkun difiża għall-persuna akkużata li tipprova li hi tkun persuna li x-xogħol tagħha hu li tippubblika jew tagħmel arrangamenti għall-pubblikazzjoni ta' reklami u li tkun irċeviet ir-reklam għall-pubblikazzjoni fil-kors normali tax-xogħol u li ma kenitx taf u li ma kellha ebda raġuni tissuspetta li l-pubblikazzjoni tiegħu jkun jammonta għal reat taħt dan l-Att.

Pubblikazzjoni innocenti ta' reklam.

Setgħa għal dhul f'post u għal spezzjoni u qbid ta' oġġetti u dokumenti.

22. (1) Bla hsara għas-setgħat u dmirijiet tal-pulizija eżekuttiva, kull uffiċjal pubbliku fid-Dipartiment tal-Kummerċ awtorizzat kif imiss mill-Ministru jista', fil-hinijiet kollha xierqa u mal-produzzjoni, jekk mehtieġa, tal-kredenzjali tiegħu, jeżerċita s-setgħat li ġejjin, jiġifieri —

(a) hu jista', sabiex jiżgura jekk xi reat taht dan l-Att ikunx sar, jispezzjona kull oġġetti u jidhol f'kull post barra minn post użat biss għal abitazzjoni;

(b) jekk ikollu raġuni xierqa jissuspetta li reat taht dan l-Att ikun sar, hu jista', sabiex jiżgura jkunx sar jew le, jirrikjedi lil kull persuna li tkun qed tmexxi kummerċ jew negozju jew impjegata f'kummerċ jew negozju li tiproduċi kull kotba jew dokumenti dwar il-kummerċ jew in-negozju u jista' jagħmel kopja ta' kull ktieb jew dokument bħal dawk jew registrazzjonijiet;

(ċ) jekk ikollu raġuni xierqa jahseb li jkun sar reat taht dan l-Att, jista' jaqbad u jzomm kull oġġett sabiex jiżgura b'testijiet jew xort'ohra, jekk ikunx sar jew le r-reat;

(d) jista' jaqbad u jzomm kull oġġett jew dokument li jkollu raġuni jahseb li jistgħu jkunu mehtieġa bħala prova fil-proċedimenti għal reat taht dan l-Att;

(e) hu jista', sabiex ikun jista' jeżerċita s-setgħat tiegħu taht dan is-subartikolu jaqbad oġġetti, iżda biss jekk u safejn ikun b'mod raġonevoli mehtieġ sabiex jiżgura li jkunu qed jitharsu d-dispożizzjonijiet ta' dan l-Att u ta' kull ordni magħmul bis-saħħa tiegħu, jehtieġ lil kull persuna li jkollha l-awtorità li tagħmel hekk li tikser kull reċipjent jew tiftaħ kull *vending machine* u, jekk dik il-persuna ma tagħmilx hekk, hu jista' jagħmel hekk hu nnifsu.

(2) Uffiċjal pubbliku awtorizzat kif imiss kif intqal qabel li jaqbad xi oġġetti jew dokumenti fl-eżerċizzju tas-setgħat tiegħu taht dan l-artikolu għandu jgħarraf lill-persuna li minghandha jinqabdu u, fil-każ ta' oġġetti maqbuda minn *vending machine*, lill-persuna li isimha u l-indirizz tagħha jkunu mniżżlin fuq il-makna bħala li hi l-proprjetarja, jew jekk tali isem u indirizz ma jkunux imniżżlin, lill-okkupant tal-post fejn tkun imqiegħda jew imwahnha l-makna.

(3) Uffiċjal li jidhol f'xi post bis-saħħa ta' dan l-artikolu jista' jiehu miegħu lil dawk il-persuni l-oħra awtorizzati mill-Ministru u dak it-tagħmir li jidhirlu mehtieġa.

Kxif ta' tagħrif, eċċ.

23. Bla hsara għal kull responsabbiltà oħra taht din il-liġi jew taht xi liġi oħra, jekk xi persuna tikxef lil xi persuna oħra —

(a) xi tagħrif dwar il-proċess ta' fabbrikazzjoni jew sigriet kummerċjali li tiksbu f'xi post fejn tkun dahlet bis-saħħa ta' dan l-Att; jew

(b) xi tagħrif li tikseb bis-saħħa ta' dan l-Att;

din, kemm-il darba l-kxif ma jkunx sar fil-qadi tagħha jew ta' xi persuna oħra li għandha funzjonijiet taht dan l-Att, tkun hatja ta' reat u tehel meta tinsab hatja multa ta' mhux iżjed minn elf lira Maltija jew prigunerija għal żmien ta' mhux inqas minn erba' xhur iżda mhux iżjed minn sentejn, jew dik il-multu u prigunerija flimkien.

Tfikkil lil uffiċjali awtorizzati.

24. Bla hsara għal kull responsabbiltà oħra taht din il-liġi jew taht xi liġi oħra kull persuna li —

- (a) għax trid, tfixkel lil pulizija jew lil uffiċjal pubbliku waqt li jkun qed jaġixxi skond dan l-Att; jew
- (b) għax trid, tonqos li thares xi hteġa li ssirilha b'mod legittimu taht dan l-Att minn xi uffiċjal bhal dak; jew
- (ċ) minghajr raġuni xierqa tonqos li tagħti lil dak l-uffiċjal li jkun hekk qed jaġixxi xi għajnuna oħra jew tagħrif iehor li hu jista' b'mod xieraq jirrikjedi minn għandha għall-fini tal-qadi tal-funzjonijiet tieghu taht dan l-Att; jew
- (d) tagħti dak it-tagħrif kif imsemmi fil-paragrafu ta' qabel dan meta taf li jkun falz,

tkun hatja ta' reat u tehel meta tinsab hatja, multa ta' mhux inqas minn għaxar liri Maltin iżda mhux iżjed minn hamsin lira Maltin u meta l-għemil jew ommissjoni li jikkostitwixxu r-reat jissokta għal aktar minn gurnata, il-Qorti għandha b'żieda timponi multa ta' mhux anqas minn għaxar liri Maltin u mhux aktar minn hamsin lira Maltija għal kull jum li fih jissussistu dak l-għemil jew dik l-ommissjoni.

25. Meta xi oġġetti maqbuda jew xort'oħra miksuba minn uffiċjal skond dan l-Att ikun se jsirilhom eżami —

- (a) jekk l-oġġetti kienu maqbuda, l-uffiċjal għandu jgħarraf lill-persuna li minn għandha l-oġġetti jkunu ġew maqbuda bir-riżultat ta' l-eżami;
- (b) jekk l-oġġetti jkunu nxtraw u l-eżami jwassal biex jinbdew proċedimenti għal reat taht dan l-Att, l-uffiċjal għandu jgħarraf lill-persuna minghand min l-oġġetti jkunu nxtraw, jew, fil-każ ta' oġġetti mibjugħin permezz ta' *vending machine* lill-persuna msemmija fis-subartikolu (2) ta' l-artikolu 22 ta' dan l-Att, bir-riżultat ta' l-eżami.

Avviż dwar eżami u hsieb li ssir prosekuzzjoni.

26. Il-fatt li deskrizzjoni kummerċjali hija *trade mark*, jew parti minn *trade mark*, ma jzommhiex milli tkun deskrizzjoni kummerċjali falza meta applikata għal xi oġġetti.

Trade marks li jkun fihom deskrizzjonijiet kummerċjali.

27. (1) Għall-finijiet ta' dan l-Att oġġetti jitqiesu li ġew fabrikati jew prodotti fil-pajjiż fejn sarilhom l-aħhar trattament jew proċess li johloq tibdil sostanzjali.

Pajjiż ta' oriġini.

(2) Il-Ministru jista' b'ordni jispeċifika —

- (a) dwar kull deskrizzjoni ta' oġġetti, liema trattament jew proċess jitqies għall-finijiet ta' dan l-artikolu bhala li johloq jew ma johloqx tibdil sostanzjali;
- (b) dwar kull deskrizzjoni ta' oġġetti, li partijiet differenti minnhom ikunu fabbrikati jew prodotti f'pajjiżi differenti, jew ta' oġġetti immuntati f'pajjiż differenti minn dak fejn il-partijiet ikunu ġew fabbrikati jew prodotti, f'liema minn dawk il-pajjiżi l-oġġetti għandhom jitqiesu għall-finijiet ta' dan l-Att bhala li ġew fabbrikati jew prodotti.

28. (1) L-artikoli 3 u 10 ta' dan l-Att ma japplikawx dwar oġġetti provduti jew offerti biex jiġu provduti, sew lil partecipant jew lil xi persuna oħra, għall-fini ta' esperiment għal riċerki fis-swieq li għalih japplika dan l-artikolu.

Esperimenti għal riċerki fis-swieq.

(2) F'dan l-artikolu "esperimenti għal riċerki fis-swieq" tffisser kull hidma li ssir sabiex tiġi żgurata l-fehma ta' persuni (f'dan l-artikolu msemmija "partecipanti") dwar —

- (a) xi oġġetti; jew
- (b) xi haġa li fiha, fuqha jew magħha l-oġġetti jiġu provduti; jew
- (c) id-dehra jew xi karatteristika oħra ta' l-oġġetti jew ta' xi haġa bħal dawk; jew
- (d) l-isem li bih jew id-deskrizzjoni li biha l-oġġetti huma provduti.

(3) Dan l-artikolu japplika għal kull esperiment għal riċerki fis-swieq li dwaru jkunu sodisfatti l-kondizzjonijiet li ġejjin, jiġifieri, —

- (a) li kull partecipant li jiġi provdut b'xi oġġetti għall-fini ta' l-esperiment ikun mġharraf, fil-hin li jiġu provduti lilu jew qabel, li qed jiġu provduti għall-ghan kif imsemmi fis-subartikolu (2) ta' dan l-artikolu, u
- (b) li ebda konsiderazzjoni fi flus jew f'dak li jiswa l-flus ma tinghata minn partecipant għall-oġġetti jew għal xi oġġetti provduti lilu biex jagħmel paragun.

Preskrizzjonijiet.

29. Azzjoni kriminali taħt dan l-Att, barra minn reati taħt l-artikoli 23 u 24 ta' dan l-Att tkun preskritta wara li tghaddi sena.

Proċedimenti kriminali.

30. (1) Proċedimenti kriminali għal xi reat kontra xi dispożizzjoni ta' dan l-Att għandhom jinbdeu mill-Pulizija *ex officio*, iżda fi proċedimenti li jkunu qed isiru, barra minn dawk għal reat taħt l-artikoli 23 u 24 ta' dan l-Att, rappreżentant ta' organizzazzjoni tal-konsumaturi, debitament maħtur għal dak il-ghan, hu meqjus li hu parti leża għall-finijiet tad-dispożizzjonijiet tas-subartikolu (3) ta' l-artikolu 422 tal-Kodiċi Kriminali, u dan ir-rappreżentant jista' għalhekk jassisti l-uffiċjal prosekutur f'dawn il-proċedimenti.

(2) Fejn tinhtieg ix-xiehda ta' dan ir-rappreżentant f'xi każ fejn ikun qed jassisti lill-uffiċjal prosekutur, din ix-xiehda għandha tinghata qabel kull xiehda oħra, sakemm il-htieġa għas-smieġh ta' din ix-xiehda ma tinqalax fi stadju ulterjuri ta' dawn il-proċedimenti.

(3) Meta xi reat taħt jew kontra xi dispożizzjoni li tinsab f'dan l-Att, isir minn għaqda korporata mwaqqfa b'liġi jew minn dipartiment tal-gvern, kull persuna li, fil-hin ta' l-għemil tar-reat, kienet *chairman*, *manager*, segretarju, kap jew uffiċjal iehor simili ta' l-għaqda korporata jew dipartiment, jew kienet tidher li qed taġixxi f'dik il-kariga, tkun hatja ta' dak ir-reat kemm-il darba ma tippruvax li tkun eżerċitat d-diligenza kollha xierqa biex tevita l-għemil tar-reat, jew li għalkemm eżerċitat dik id-diligenza, ir-reat ikun sar mingħajr ma kienet taf.

(4) Meta reat taħt dan l-Att ikun ġie kommess bil-pubblikazzjoni ta' reklam, il-Qorti tista' fis-sentenza, tordna fil-każ ta' gazzetta jew publikazzjoni oħra simili, li f'harga tagħha ta' wara li ma tkunx iżjed tard mit-tieni waħda, u fil-każ ta' mezz tax-xandir fi żmien ġimgħa li tiġi minnufih wara l-ġurnata li fiha tinghata s-sentenza, li s-sentenza

nnifisha jew sommarju komprensiv tagħha jiġi ppubblikat jew imxandar, skond il-każ, fl-istess ilsien li fih ikun sar ir-reat, għas-spejjeż ta' min ikun għamel ir-reat; u jekk fiż-żmien tas-sentenza jew minnufih wara l-gazzetta jew il-pubblikazzjoni simili oħra tkun waqfet mill-pubblikazzjoni jew il-mezz tax-xandir ma jkunx baqa' jahdem, jew f'każ ta' xi stampar iehor, il-Qorti tista', fis-sentenza jew f'ordni li tagħti wara, tordna li dik is-sentenza jew dak is-sommarju jiġi ppubblikat jew imxandar għas-spejjeż tal-parti misjuba hatja f'gazzetta oħra jew fuq mezz iehor tax-xandir fi żmien li ma jkunx aktar minn xahar.

(5) Fin-nuqqas ta' tharis ta' kull ordni msemmi fis-sub-artikolu (4) ta' dan l-artikolu dik il-parti li tinstab hatja tehel multa ta' mhux anqas minn mitejn lira Maltija u mhux iżjed minn elf lira Maltija jew prigunerija għal perjodu ta' mhux iżjed minn tliet xhur jew għal dik il-multa u dik il-prigunerija flimkien.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 352 tad-9 ta' Ġunju, 1986.

C. MIFSUD
Skriivan tal-Kamra tad-Deputati

DANIEL MICALLEF
Speaker

I assent.

(L.S.)

AGATHA BARBARA
President

13th June, 1986

ACT No. XXII of 1986

AN ACT to make provisions prohibiting misdescriptions of goods, services, accommodation and facilities provided in the course of trade; to prohibit false information or misleading indications as to the price of goods and for other matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title and commencement.

1. (1) This Act may be cited as the Trade Descriptions Act, 1986.

(2) This Act shall come into force on such date as the Minister responsible for trade may appoint by notice in the Gazette and different dates may be so appointed for different provisions and different purposes of the Act.

Interpretation.

2. (1) In this Act, unless the context otherwise requires —

“advertisement” includes a catalogue, a circular and a price list;

Act XXIX of 1981

“consumers’ organisation” means a body of persons recognised under the provisions of the Consumers Protection Act, 1981;

“goods” means things offered for sale by way of trade in Malta;

“Minister” means the Minister responsible for trade;

“person” includes also a body corporate established by law and a government department;

“premises” includes any place and any stall or vehicle.

(2) For the purpose of this Act, a trade description or statement published in any newspaper, book or periodical, or in any film or

sound or television broadcast shall not be deemed to be a trade description applied or statement made in the course of a trade or business unless it is or forms part of an advertisement.

3. (1) Any person who, in the course of a trade or business —
- (a) applies a false trade description to any goods; or
 - (b) supplies or offers to supply any goods to which a false trade description is applied,

Prohibition of false trade descriptions.

shall, subject to the provisions of this Act, be guilty of an offence.

(2) Sections 4 to 8 of this Act shall have effect for the purposes of this section and for the interpretation of expressions used in this section, wherever they occur in this Act.

4. (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 —

Trade description.

- (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;
- (k) guarantee as to repairs or substitution;
- (l) expiry date or shelf life.

(2) The matters specified in subsection (1) of this section shall, in relation to any animal, be taken to include sex, breed or cross, fertility and soundness.

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

5. (1) A false trade description is a trade description which is false to a material degree.

False trade description.

(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 4 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.

Application of
trade description.

6. (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 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.

Trade descriptions
used in
advertisements.

7. (1) The following provisions of this section shall have effect where in an advertisement a trade description is used in relation to any class of goods.

(2) The trade description shall be taken as referring to all goods of the class, whether or not in existence at the time the advertisement is published —

(a) for the purpose of determining whether an offence has been committed under paragraph (a) of subsection (1) of section 3 of this Act; and

(b) where goods of the class are supplied or offered to be supplied by a person publishing or displaying the advertisement, also for the purpose of determining whether an offence has been committed under paragraph (b) of subsection (1) of the said section 3.

(3) In determining for the purposes of this section whether any goods are of a class to which a trade description used in an advertisement relates, regard shall be had not only to the form and content of the advertisement but also to the time, place, manner and frequency of its publication and all other matters making it likely or unlikely that a person to whom the goods are supplied would think of the goods as belonging to the class in relation to which the trade description is used in the advertisement.

8. A person exposing goods for supply or having goods in his possession for supply shall be deemed to offer to supply them. Offer to supply.

9. Where it appears to the Minister —

(a) that it would be in the interest of persons to whom any goods are supplied; or

(b) that it would be in the interest of persons by whom any goods are exported and would not be contrary to the interest of persons to whom such goods are supplied in Malta;

that any expressions used in relation to the goods should be understood as having definite meanings, the Minister may by order assign such meanings either —

(i) to those expressions when used in the course of a trade or business as, or as part of, a trade description applied to the goods; or

(ii) to those expressions when so used in such circumstances as may be specified in the order;

and where such a meaning is so assigned to an expression it shall be deemed for the purposes of this Act to have that meaning when used as mentioned in paragraph (i) or, as the case may be, paragraph (ii) of this section.

10. (1) Where it appears to the Minister necessary or expedient in the interest of persons to whom any goods are supplied that the goods should be marked with or accompanied by any information (whether or not amounting to or including a trade description) or instruction relating to the goods, the Minister may, subject to the provisions of this Act, by order impose requirements for securing that the goods are so marked or accompanied, and regulate or prohibit the supply of goods with respect to which the requirements are not complied with; and the requirements may extend to the form and manner in which the information or instruction is to be given. Marking orders.

(2) Where an order under this section is in force with respect to goods of any description, any person who, in the course of any trade or business, supplies or offers to supply goods of that description in contravention of the order shall, subject to the provisions of this Act, be guilty of an offence.

(3) An order under this section may make different provision for different circumstances and may, in the case of goods supplied in circumstances where the information or instruction required by the order would not be conveyed until after delivery, require the whole or part thereof to be also displayed near the goods.

11. (1) Where it appears to the Minister necessary or expedient in the interest of persons to whom any goods are to be supplied that any description of advertisements of the goods should contain or refer to any information (whether or not amounting to or including a trade description) relating to the goods the Minister may, subject to the provisions of this Act, by order impose requirements as to the inclusion of that information, or of an indication of the means by which it may be obtained, in such description of advertisements of the goods as may be specified in the order. Information, etc. to be given in advertisements.

(2) An order under this section may specify the form and manner in which any such information or indication is to be included in advertisements of any description and may make different provisions for different circumstances.

(3) Where an advertisement of any goods to be supplied in the course of any trade or business fails to comply with any requirement imposed under this section, any person who publishes the advertisement shall, subject to the provisions of this Act, be guilty of an offence.

Provisions supplementary to sections 10 and 11.

12. A requirement imposed by an order under section 10 or section 11 of this Act in relation to any goods shall not be confined to goods manufactured or produced in any one country or any one of a number of countries or to goods manufactured or produced outside any one or more countries, unless —

(a) it is imposed with respect to a description of goods in the case of which the Minister is satisfied that the interest of persons in Malta to whom goods of that description are supplied will be sufficiently protected if the requirement is so confined; and

(b) the Minister is satisfied that the order is compatible with the international obligations of Malta.

False or misleading indications as to the price of goods.

13. (1) If any person offering to supply goods or services of any description gives, by whatever means, any false indication to the effect that the price at which the goods or services are offered is equal to or less than —

(i) the price fixed by the manufacturer, or by the importer or by any authority for such goods or services; or

(ii) the price at which the goods or services, or goods or services of the same description were previously offered by him;

or is less than such a price by a specified amount, he shall, subject to the provisions of this Act, be guilty of an offence.

(2) If any person offering to supply any goods or services gives, by whatever means, any indication likely to be taken as an indication that the goods or services are being offered at a price less than that at which they are in fact being offered he shall, subject to the provisions of this Act, be guilty of an offence.

(3) For the purposes of this section an indication that goods or services were previously offered at a higher price or at a particular price —

(a) shall be treated as an indication that they were so offered by the person giving the indication unless it is expressly stated that they were so offered by others and it is not expressed or implied that they were, or might have been, so offered also by that person; and

(b) shall be treated, unless the contrary is expressed, as an indication that they were so offered within the preceding six months for a continuous period of not less than twenty-eight days.

False representation as to prize, award or approval.

14. (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 of a kind that has been awarded any prize or any award, or are of a kind supplied to or approved by any person or authority, 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 proper authority any device or emblem signifying any award, prize or approval 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.

15. (1) It shall be an offence for any person in the course of any trade or business —

False or misleading statements as to services, etc.

- (a) to make a statement which he knows to be false; or
- (b) recklessly to make a statement which is false, as to any of the following matters, that is to say —

- (i) the provision in the course of any trade or business of any services, accommodation or facilities;

- (ii) the nature of any services, accommodation or facilities provided in the course of any trade or business;

- (iii) the time at which, manner in which or persons by whom any services, accommodation or facilities are so provided;

- (iv) the examination, approval or evaluation by any person of any services, accommodation or facilities so provided; or

- (v) the location or amenities of any accommodation so provided.

(2) For the purposes of this section —

- (a) anything (whether or not a statement as to any of the matters specified in the preceding subsection) likely to be taken for such a statement as to any of those matters as would be false shall be deemed to be a false statement as to that matter; and

- (b) a statement made regardless of whether it is true or false shall be deemed to be made recklessly, whether or not the person making it had reasons for believing that it might be false.

(3) In relation to any services consisting of or including the application of any treatment or process or the carrying out of any repair, the matters specified in subsection (1) of this section shall be taken to include the effect of the treatment, process or repair.

(4) In this section “false” means false to a material degree and “services” does not include anything done under a contract of employment, apprenticeship or other similar contract.

16. Where it appears to the Minister that it would be in the interest of persons for whom any services, accommodation or facilities are provided in the course of any trade or business that any expressions used with respect thereto should be understood as having definite meanings, the Minister may by order assign such meanings to those expressions when used as, or as part of, such statements as are mentioned in section 15 of this Act with respect to those services, accommodation or facilities; and where such a meaning is so assigned to an expression it shall be deemed for the purposes of this Act to have that meaning when so used.

Orders defining terms for purposes of section 15.

Prohibition of importation of goods bearing false indication of origin.

17. Where a false trade description is applied to any goods outside Malta 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 Malta.

Penalty for offences.

18. Without prejudice to any liability under any other law, a person guilty of an offence under this Act, other than an offence under section 23 or 24, shall, on conviction, be liable to a fine (*multa*) of not less than one hundred Maltese liri but not exceeding five hundred Maltese liri or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Offences due to fault of other person.

19. Where the act or omission constituting an offence under this Act which has been made or omitted by any person 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.

Defence of mistake or accident.

20. (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 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, be entitled to rely on that defence unless immediately after the reading out of the charge he shall have served 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) In any proceedings for an offence under this Act of supplying or offering to supply goods to which a false trade description is applied it shall be a defence for the person charged to prove that he did not know, and could not with reasonable diligence, have ascertained that the goods did not conform to the description or that the description had been applied to the goods.

Innocent publication of advertisement.

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

22. (1) Without prejudice to the powers and duties of the executive police, any public officer in the Department of Trade duly authorised by the Minister may, at all reasonable hours and on production, if required, of his credentials, exercise the following powers, that is to say

Power to enter premises and inspect and seize goods and documents.

(a) he may, for the purpose of ascertaining whether any offence under this Act has been committed, inspect any goods and enter any premises other than premises used only as a dwelling;

(b) if he has reasonable cause to suspect that an offence under this Act has been committed, he may, for the purpose of ascertaining whether it has been committed, require any person carrying on a trade or business or employed in connection with a trade or business to produce any books or documents relating to the trade or business and may take copies of, or of any entry in, any such book or document;

(c) if he has reasonable cause to believe that an offence under this Act has been committed, he may seize and detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;

(d) he may seize and detain any goods or documents which he has reason to believe may be required as evidence in proceedings for an offence under this Act;

(e) he may, for the purpose of exercising his powers under this subsection to seize goods, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act and of any order made thereunder are duly observed, require any person having authority to do so to break open any container or open any vending machine and, if that person does not comply with the requirement, he may do so himself.

(2) A public officer duly authorised as aforesaid seizing any goods or documents in the exercise of his powers under this section shall inform the person from whom they are seized and, in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being the proprietor's or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

(3) An officer entering any premises by virtue of this section may take with him such other persons authorised by the Minister and such equipment as may appear to him necessary.

23. Without prejudice to any other liability under this or any other law, if any person discloses to any person —

Disclosure of information, etc.

(a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this Act; or

(b) any information obtained by him in pursuance of this Act,

he shall, unless the disclosure was made in or for the purpose of the performance by him or any other person of functions under this Act, be

guilty of an offence and shall, on conviction, be liable to a fine (*multa*) of not more than one thousand Maltese liri or to imprisonment for a term of not less than four months but not exceeding two years, or to both such fine and imprisonment.

Obstruction of authorised officers.

24. Without prejudice to any other liability under this or any other law any person who —

(a) wilfully obstructs a police officer or a public officer acting in pursuance of this Act; or

(b) wilfully fails to comply with any requirement properly made to him by any such officer under this Act; or

(c) without reasonable cause fails to give such an officer so acting any other assistance or information which he may reasonably require of him for the purpose of the performance of his functions under this Act; or

(d) gives such information as is mentioned in the last preceding paragraph which he knows to be false,

shall be guilty of an offence and liable, on conviction, to a fine (*multa*) of not less than ten Maltese liri but not exceeding fifty Maltese liri and where the act or omission constituting the offence subsist for more than a day, the Court shall in addition impose a fine (*multa*) of not less than ten Maltese liri and not more than fifty Maltese liri for each day in which such act or omission subsist.

Notice of test and intended prosecution.

25. Where any goods seized or otherwise acquired by an officer in pursuance of this Act are submitted to a test, then —

(a) if the goods were seized, the officer shall inform the person from whom the goods were seized of the result of the test;

(b) if the goods were purchased and the test leads to the institution of proceedings for an offence under this Act, the officer shall inform the person from whom the goods were purchased, or, in the case of goods sold through a vending machine, the person mentioned in subsection (2) of section 22 of this Act, of the result of the test.

Trade marks containing trade descriptions.

26. The fact that a trade description is a trade mark, or part of a trade mark, does not prevent it from being a false trade description when applied to any goods.

Country of origin.

27. (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 Minister 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.

28. (1) Sections 3 and 10 of this Act shall not apply in relation to goods supplied or offered to be supplied, whether to a participant or any other person, in the course of a market research experiment to which this section applies.

Market
research
experiment.

(2) In this section “market research experiment” means any activities conducted for the purpose of ascertaining the opinion of persons (in this section referred to as “participants”) of —

- (a) any goods; or
- (b) anything in, on or with which the goods are supplied; or
- (c) the appearance or any other characteristic of the goods or of any such thing; or
- (d) the name or description under which the goods are supplied.

(3) This section applies to any market research experiment with respect to which the following conditions are satisfied, that is to say, —

- (a) that any participant to whom any goods are supplied in the course of the experiment is informed, at or before the time at which they are supplied to him, that they are supplied for such a purpose as is mentioned in subsection (2) of this section, and
- (b) that no consideration in money or money’s worth is given by a participant for the goods or any goods supplied to him for comparison.

29. Criminal action for offences under this Act, other than offences under sections 23 and 24 of this Act shall be barred by prescription after the lapse of one year.

Limitation of
actions and
prosecutions.

30. (1) Criminal proceedings for any offence against any provision of this Act shall be instituted by the Police *ex officio*, provided that in proceedings other than for an offence under section 23 or 24 of this Act, a representative of a consumers’ organisation, duly appointed for the purpose, shall be deemed to be an injured party for the purposes of the provisions of subsection (3) of section 422 of the Criminal Code, and such representative may assist the prosecuting officer in such proceedings.

Criminal
proceedings.

(2) Where the evidence of such representative is to be given in any case in which he is to assist the prosecuting officer, such evidence shall be given before other evidence, unless the need for his evidence arises at a later stage of the proceedings.

(3) Where any offence under or against any provision contained in this Act, is committed by a body corporate established by law or by a government department, every person who, at the time of the commission of the offence, was chairman, manager, secretary, head or other similar officer of the body corporate or department, or was pur-

porting to act in any such capacity, shall be guilty of that offence unless he proves that he exercised due diligence to prevent the commission of the offence, or that notwithstanding that he exercised such diligence the offence was committed without his knowledge.

(4) Where an offence under this Act has been committed by the publication of an advertisement, the court may in the judgement order, order in the case of a newspaper or other similar publication, that in a subsequent issue thereof not later than the next but one, and in the case of a broadcasting medium within a week immediately following the day on which the judgement is given, the judgement itself or a comprehensive summary thereof be published or broadcast, as the case may require, in the same language in which the offence was committed, at the expense of the offender; and if at the time of the judgement or immediately thereafter the newspaper or other similar publication has ceased publication or the broadcasting medium has ceased to operate, or in the case of any other printed matter, the Court may in the judgement or in a subsequent order, order that the summary be published at the expense of the party convicted in another newspaper or on another medium within a period not exceeding one month.

(5) In default of compliance with any order referred to in subsection (4) of this section the party convicted shall be liable to a fine (*multa*) of not less than two hundred Maltese liri but not exceeding one thousand Maltese liri or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Passed by the House of Representatives at Sitting No. 352 of the 9th June, 1986.

C. MIFSUD
Clerk to the House of Representatives

DANIEL MICALLEF
Speaker