



# Trade Descriptions Act 1968

## 1968 CHAPTER 29

*Miscellaneous and supplemental.*

### 32 Power to exempt goods sold for export, etc. **U.K.**

<sup>F1</sup> .....

#### Textual Amendments

**F1** S. 32 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(h), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

### <sup>F2</sup>33 Compensation for loss, etc. of goods seized under s. 28. **U.K.**

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#### Textual Amendments

**F2** S. 33 omitted (1.10.2015) by virtue of [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 8**; [S.I. 2015/1630](#), art. 3(i) (with art. 8)

### 34 Trade marks containing trade descriptions. **U.K.**

The fact that a trade description is a trade mark, or part of a trade mark, <sup>F3</sup> . . . does not prevent it from being a false trade description when applied to any goods, except where the following conditions are satisfied, that is to say—

- (a) that it could have been lawfully applied to the goods if this Act had not been passed; and
- (b) that on the day this Act is passed the trade mark either is registered under the Trade Marks Act 1938 or is in use to indicate a connection in the course of trade between such goods and the proprietor of the trade mark; and

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- (c) that the trade mark as applied is used to indicate such a connection between the goods and the proprietor of the trade mark or [<sup>F4</sup>, in the case of a registered trade mark, a person licensed to use it]; and
- (d) that the person who is the proprietor of the trade mark is the same person as, or a successor in title of, the proprietor on the day this Act is passed.

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**Textual Amendments**

- F3** Words in s. 34 omitted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 4(a)**; S.I. 1994/2550, **art.2**.
- F4** Words in s. 34(c) substituted (31.10.1994) by 1994 c. 26, s. 106(1), **Sch. 4 para. 4(b)**; S.I. 1994/2550, **art.2**.

**35 Saving for civil rights. U.K.**

A contract for the supply of any goods shall not be void or unenforceable by reason only of a contravention of any provision of this Act.

**36 Country of origin. U.K.**

- (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 Board of Trade 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.

**37 Market research experiments. U.K.**

<sup>F5</sup> .....

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**Textual Amendments**

- F5** S. 37 repealed (26.5.2008) by [The Consumer Protection for Unfair Trading Regulations 2008 \(S.I. 2008/1277\)](#), reg. 30(1)(3), Sch. 2 para. 8(i), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3))

**38 Orders. U.K.**

- (1) Any power to make an order under the preceding provisions of this Act shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament, and includes power to vary or revoke such an order by a subsequent order.

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- (2) Any order under the preceding provisions of this Act which relates to any [F6. . .]fertilisers or any goods used as pesticides or for similar purposes shall be made by the Board of Trade acting jointly with the following Ministers, that is to say, if the order extends to England and Wales, the Minister of Agriculture, Fisheries and Food, and if it extends to Scotland or Northern Ireland, the Secretary of State concerned.
- [F7(2A) Any order under the preceding provisions of this Act which relates to any agricultural, horticultural or fishery produce, whether processed or not, food, feeding stuffs or the ingredients of food or feeding stuffs shall be made by the Board of Trade acting jointly with the following Ministers, that is to say, if the order extends to England and Wales, the Secretary of State concerned with health and if it extends to Scotland or Northern Ireland, the Secretary of State concerned.
- (2B) Before making an order to which subsection (2) or (2A) of this section applies the Board of Trade shall consult the Food Standards Agency.]
- (3) The following provisions shall apply to the making of an order under [F8section 36 of this Act]<sup>F8</sup>, that is to say—
- (a) before making the order the Board of Trade shall consult with such organisations as appear to them to be representative of interests substantially affected by it and shall publish, in such manner as the Board think appropriate, notice of their intention to make the order and of the place where copies of the proposed order may be obtained; and
  - (b) the order shall not be made until the expiration of a period of twenty-eight days from the publication of the notice and may then be made with such modifications (if any) as the Board of Trade think appropriate having regard to any representations received by them.

#### Textual Amendments

- F6** Words in s. 38(2) repealed (1.4.2000) by 1999 c. 28, s. 40(1)(4), Sch. 5, para. 4(2), **Sch. 6** (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F7** S. 38(2A)(2B) inserted (1.4.2000) by 1999 c. 28, s. 40(1), **Sch. 5**, para. 4(3) (with ss. 38, 40(2)); S.I. 2000/1066, **art. 2**
- F8** Words in s. 38(3) substituted (26.5.2008) by **The Consumer Protection for Unfair Trading Regulations 2008** (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 11** (with savings in reg. 28(2)(3))

#### Modifications etc. (not altering text)

- C1** S. 38(2): Functions transferred (W.) (1.7.1999) from Minister of the Crown to Welsh Assembly by S.I. 1999/672, arts. 1(1), 2, **Sch. 1**

### 39 Interpretation. **U.K.**

- (1) The following provisions shall have effect, in addition to sections [F92 to 4]<sup>F9</sup> of this Act, for the interpretation in this Act of expressions used therein, that is to say,—
- “advertisement” includes a catalogue, a circular and a price list;
  - “goods” includes ships and aircraft, things attached to land and growing crops;
  - “premises” includes any place and any stall, vehicle, ship or aircraft; and
  - “ship” includes any boat and any other description of vessel used in navigation.

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(2) <sup>F10</sup> .....

**Textual Amendments**

**F9** Words in s. 39(1) substituted (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1), **Sch. 2 para. 12** (with savings in reg. 28(2)(3))

**F10** S. 39(2) repealed (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 30(1)(3), Sch. 2 para. 8(j), **Sch. 4 Pt. 1** (with savings in reg. 28(2)(3), Sch. 3 paras. 1-4)

**40 Provisions as to Northern Ireland. U.K.**

(1) This Act shall apply to Northern Ireland subject to the following modifications, that is to say—

- (a) section 19(2) shall apply as if for the references to [<sup>F11</sup>section 127(1) of the Magistrates’ Courts Act 1980]and the trial and laying of an information there were substituted respectively references to [<sup>F12</sup>Article 19(1) of the Magistrates’ Courts (Northern Ireland) Order 1981]and the hearing and determination and making of a complaint [<sup>F13</sup>and as if for the word “under” there were substituted the words “under section 29(1) of”];
- (b) section 26 and subsections (2) to (4) of section 30 shall not apply but it shall be the duty of the Ministry of Commerce for Northern Ireland to enforce the provisions of this Act and of any order made under it (other than the provisions of section 42 of this Act);

<sup>F14</sup>(c) .....

(2)—(4) . . . <sup>F15</sup>

[<sup>F16</sup>(1A) For the investigatory powers available to the Department of Enterprise, Trade and Investment in Northern Ireland for the purposes of the duty in subsection (1)(b), see Schedule 5 to the Consumer Rights Act 2015.]

(5) The Board of Trade shall for each financial year pay into the Exchequer of Northern Ireland such sum as the Board and the Ministry of Commerce for Northern Ireland may agree to be appropriate as representing the expenses incurred by that Ministry in enforcing so much of this Act as relates to matters with respect to which the Parliament of Northern Ireland does not have power to make laws.

(6) Nothing in this Act shall authorise any department of the Government of Northern Ireland to incur any expenses attributable to the provisions of this Act until provision has been made by the Parliament of Northern Ireland for those expenses to be defrayed out of moneys provided by that Parliament.

(7) .....

**Textual Amendments**

**F11** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 74**

**F12** Words substituted by S.I. 1981/1675 (N.I. 26), **Sch. 6 Pt. I para. 13**

**F13** Words added (N.I.) by S.I. 1980/704 (N.I. 6), **Sch. 1 para. 43**

**F14** S. 40(1)(c) omitted (1.10.2015) by virtue of Consumer Rights Act 2015 (c. 15), s. 100(5), **Sch. 6 para. 9(2)**; S.I. 2015/1630, art. 3(i) (with art. 8)

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- F15** S. 40(2)—(4)(7) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 6 Pt. I**  
**F16** S. 40(1A) inserted (1.10.2015) by [Consumer Rights Act 2015 \(c. 15\)](#), s. 100(5), **Sch. 6 para. 9(3)**; S.I. 2015/1630, art. 3(i)

**Modifications etc. (not altering text)**

- C2** S. 40(b)(c) extended by [Control of Pollution Act 1974 \(c. 40, SIF 46:4\)](#), s. 75(8)

**41 Consequential amendments and repeals. U.K.**

- (1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments specified in that Schedule.  
(2) ..... <sup>F17</sup>

**Textual Amendments**

- F17** S. 41(2) repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#), s. 1(1), **Sch. Pt. XIII**

**Modifications etc. (not altering text)**

- C3** The text of S. 41(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**42 ..... <sup>F18</sup> U.K.**

**Textual Amendments**

- F18** S. 42 repealed by [Statute Law \(Repeals\) Act 1975 \(c. 10\)](#) s. 1(1) Sch. Pt. XIII

**43 Short title and commencement. U.K.**

- (1) This Act may be cited as the Trade Descriptions Act 1968.  
(2) This Act shall come into force on the expiration of the period of six months beginning with the day on which it is passed.

**Changes to legislation:**

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