



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER

No. 981. 9 June 1976.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 76 of 1976: Trade Practices Act, 1976.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 981. 9 Junie 1976.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 76 van 1976: Wet op Handelspraktyke, 1976.

WET

Om voorsiening te maak vir beheer oor sekere advertensies; om die gee of lewering van bates en die gebruik van handelskoepons in verband met die verkoop van goedere of die lewering of verskaffing van sekere dienste te beperk; om sekere handelspraktyke te verbied of te beheer; om die Handelskoeponwet, 1935, te herroep; en om voorsiening te maak vir bykomstige aangeleenthede.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 1 Junie 1976.)*

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Woordomskriving.

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

- (i) „advertensie” enige skriftelike, geïllustreerde, visuele of ander beskrywende stof of mondelinge verklaring, mededeling, voorstelling of verwysing wat onder lede van die publiek versprei word of op enige wyse hoege-naamd onder hulle aandag gebring word en wat bedoel is om—
 - (a) die verkoop of verhuring van goedere te bevorder of die gebruik daarvan aan te moedig of die aandag te vestig op die aard, eienskappe, voordele of gebruike van goedere of op die wyse of voorwaardes waarop of die pryse waarteen goedere gekoop, gehuur of andersins verkry kan word; of
 - (b) die gebruikmaking van 'n diens te bevorder of aan te moedig of die aandag te vestig op die aard, eienskappe, voordele of gebruik van 'n diens of op die wyse of voorwaardes waarop of die pryse waarteen 'n diens gelewer of verskaf word; (i)
- (ii) „bate” 'n prys, beloning, geskenk, diens, begunstiging, vry toegang of toegang teen 'n verlaagde prys tot 'n plek van vermaak, kostelose versekering of versekering teen 'n verlaagde tarief, of 'n ander bate of voordeel van watter aard ook al; (ii)
- (iii) „besigheid” 'n besigheid wat—
 - (a) goedere verkoop, invoer, vervaardig, ekstraheer, verpak, monteer, verhuur of produseer; of
 - (b) dienste lewer of verskaf; (iii)
- (iv) „diens” nie ook 'n diens wat deur iemand gelewer of verskaf word by die uitoefening van 'n beroep ten opsigte waarvan sy naam kragtens 'n Wet van die Parlement in 'n rol of register ingeskryf is nie; (xii)
- (v) „gidsprys” 'n prys wat deur 'n vervaardiger, produsent, ekstraheerder, verpakker, monteur, verhuurder of verspreider van goedere of deur 'n vereniging van handelaars in goedere of by ooreenkoms tussen sodanige handelaars as die kleinhandelsverkoopprys van daardie goedere in die algemeen of in 'n bepaalde gebied voorgestel of aanbeveel is; (vii)

TRADE PRACTICES ACT, 1976

Act No. 76, 1976

ACT

To provide for the control of certain advertisements; to restrict the giving or supply of benefits and the use of trade coupons in connection with the sale of goods or the rendering or provision of certain services; to prohibit or control certain trade practices; to repeal the Trade Coupons Act, 1935; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 1 June 1976.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

- 1.** In this Act, unless the context otherwise indicates— Definitions
- (i) "advertisement" means any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference distributed to members of the public or brought to their notice in any manner whatsoever and which is intended to—
 - (a) promote the sale or leasing of goods or encourage the use thereof or draw attention to the nature, properties, advantages or uses of goods or to the manner in, conditions on or prices at which goods may be purchased, leased or otherwise acquired; or
 - (b) promote or encourage the use of any service or draw attention to the nature, properties, advantages or uses of any service or the manner in, conditions on or prices at which any service is rendered or provided; (i);
 - (ii) "benefit" means any prize, reward, gift, service, concession, admittance free or at a reduced charge to any place of entertainment, free insurance or insurance at a reduced rate, or any benefit or advantage of any kind whatsoever; (ii)
 - (iii) "business" means any business which—
 - (a) sells, imports, manufactures, extracts, packages, assembles, leases or produces any goods; or
 - (b) renders or provides services; (iii)
 - (iv) "committee" means the Trade Practices Advisory Committee established under section 2; (xi)
 - (v) "consumer" includes any person who makes use of any service; (xiv)
 - (vi) "goods" include incorporeal movable and immovable property; (vi)
 - (vii) "guide price" means any price suggested or recommended by any manufacturer, producer, extractor, packager, assembler, lessor or distributor of any goods or by any association of dealers in any goods or by

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- (vi) „goedere” ook onliggaamlike roerende en onroerende goedere; (vi)
- (vii) „handelskoepon” enige voorwerp hoegenaamd wat, of alleen of in verband met ’n ander voorwerp of ’n handeling, die houer daarvan die reg gee of heet te gee om ’n bate te ontvang of deel te neem aan ’n kompetisie om ’n bate; (xiv)
- (viii) „handelspraktyk” nie ook ’n handelspraktyk nie wat na die oordeel van die Minister ’n monopolistiese toestand is soos bedoel in artikel 2 (1) van die Wet op Reëling van Monopolistiese Toestande, 1955 (Wet No. 24 van 1955); (xv)
- (ix) „hierdie Wet” ook ’n kennisgewing daarkragtens gepubliseer of gegee; (xiii)
- (x) „inspekteur” ’n inspekteur kragtens artikel 5 (b) aangewys; (viii)
- (xi) „komitee” die Handelspraktyke-advieskomitee kragtens artikel 2 ingestel; (iv)
- (xii) „Minister” die Minister van Ekonomiese Sake; (ix)
- (xiii) „sekretaris” die Sekretaris van Handel; (x)
- (xiv) „verbruiker” ook iemand wat van ’n diens gebruik maak; (v)
- (xv) „verkoop” ook ooreenkom om te verkoop, of merk met ’n verkoopprijs, of vir verkoop aanbied, adverteer, hou, uitstal, versend, stuur, vervoer of lewer, of verruil of op enigerlei wyse teen ’n teenprestasie aan iemand van die hand sit; en het „verkoop”, wanneer dit as ’n naamwoord gebruik word, ’n ooreenstemmende betekenis. (xi)

Samestelling van
Handelspraktyke-
advieskomitee.

2. (1) Daar is ’n Handelspraktyke-advieskomitee wat deur die Minister aangestel word, waarvan een van die lede as voorsitter en een as ondervoorsitter aangewys word.

(2) Die Minister stel as lede van die komitee aan—

- (a) minstens sewe persone uit minstens agtien persone wie se name vir daardie doel voorgelê is deur liggame wat na die oordeel van die Minister elk van die kategorieë—
 - (i) bemerkingswese;
 - (ii) advertensiewese;
 - (iii) handel;
 - (iv) nywerheidswese;
 - (v) verbruikersaangeleenthede; en
 - (vi) posbestellings, verteenwoordig; en
- (b) hoogstens agt en minstens twee lede wat bevoeg is om hom te adviseer oor die toepassing van wetgewing wat met die beskerming van verbruikers in verband staan.

(3) Indien na die verstryking van ’n tydperk van drie maande vanaf die datum waarop die sekretaris die liggame bedoel in subartikel (2) (a) skriftelik versoek het om ’n lys van persone soos beoog in daardie subartikel voor te lê, daardie liggame in gebreke gebly het om genoemde lys aan bedoelde sekretaris voor te lê of ’n lys van persone wat in die een of ander opsig gebrekkig is aan bedoelde sekretaris voorgelê het, moet die Minister geskikte persone as lede van die komitee aanstel in die plek van die persone wat hy sou aangestel het indien bedoelde liggame nie aldus in gebreke gebly het om genoemde lys voor te lê nie of nie aldus ’n lys voorgelê het wat in die een of ander opsig gebrekkig is nie.

(4) ’n Lid van die komitee bekleë sy amp vir die tydperk, maar hoogstens drie jaar, en op die voorwaardes wat die Minister ten tyde van sy aanstelling bepaal: Met dien verstande dat ’n lid, behoudens die bepalings van subartikels (2) en (3), by die verstryking van sy ampstermyn weer aangestel kan word.

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agreement between such dealers as the retail selling price, in general or in any particular area, of such goods; (v)

- (viii) "inspector" means any inspector designated under section 5 (b); (x)
- (ix) "Minister" means the Minister of Economic Affairs; (xii)
- (x) "secretary" means the Secretary for Commerce; (xiii)
- (xi) "sell" includes agree to sell, or mark with a selling price, or offer, advertise, keep, expose, transmit, send, convey or deliver for sale, or to exchange, or to dispose of to any person in any manner for a consideration; and "sold", "selling" and "sale" have corresponding meanings; (xv)
- (xii) "service" does not include any service rendered or provided by any person in the practising of any profession in respect of which his name has in terms of any Act of Parliament been entered into any roll or register; (iv)
- (xiii) "this Act" includes any notice published or given thereunder; (ix)
- (xiv) "trade coupon" means anything whatsoever which, either by itself or in connection with any other thing or act, entitles or purports to entitle the holder thereof to receive, or to participate in any competition for, any benefit; (vii)
- (xv) "trade practice" does not include any trade practice which in the opinion of the Minister is a monopolistic condition referred to in section 2 (1) of the Regulation of Monopolistic Conditions Act, 1955 (Act No. 24 of 1955). (viii)

2. (1) There shall be a Trade Practices Advisory Committee appointed by the Minister, one of whose members shall be designated as chairman and one as vice-chairman. Establishment of Trade Practices Advisory Committee.

(2) The Minister shall appoint as members of the committee—

(a) not fewer than seven persons from among at least eighteen persons whose names have been submitted for that purpose by bodies which in the opinion of the Minister represent each of the categories—

- (i) marketing;
- (ii) advertising;
- (iii) commerce;
- (iv) industry;
- (v) consumer affairs; and
- (vi) mail orders;

and

(b) not more than eight and not fewer than two members competent to advise him on the application of legislation relating to the protection of consumers.

(3) If after the expiry of a period of three months from the date on which the secretary in writing requested the bodies referred to in subsection (2) (a) to submit a list of persons as contemplated in that subsection, such bodies have failed to submit the said list to the said secretary or have submitted to the said secretary a list of persons which is defective in some or other respect, the Minister shall appoint suitable persons as members of the committee in the place of the persons he would have appointed if the said bodies had not so failed to submit the said list or had not submitted a list defective in some or other respect.

(4) A member of the committee shall hold office for such period, but not more than three years, and on such conditions as the Minister may determine at the time of his appointment: Provided that any member shall, subject to the provisions of subsections (2) and (3), on the expiry of his term of office be eligible for reappointment.

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(5) Indien 'n lid van die komitee te sterwe kom of by skriftelike kennisgewing, gerig aan die Minister, bedank, kan die Minister, met inagneming van die bepalings van subartikel (2), iemand vir die onverstreke ampstermyn van daardie lid as opvolger van daardie lid aanstel.

Vergaderings van komitee.

3. (1) Die komitee vergader op die tye en plekke wat die voorsitter of, indien hy afwesig is, die ondervoorsitter bepaal.
(2) Die kworum vir en die prosedure by 'n vergadering van die komitee word deur die Minister bepaal: Met dien verstande dat 'n kworum uit minstens sewe lede bestaan en dat persone in diens van die Staat nie 'n meerderheid van 'n kworum uitmaak nie.

Besoldiging en toelae van lede van komitee.

4. Aan 'n lid van die komitee wat nie voltyds in diens van die Staat is nie, word in verband met die werksaamhede van die komitee die besoldiging en toelae betaal wat die Minister in oorleg met die Minister van Finansies van tyd tot tyd in die algemeen of in 'n besondere geval bepaal.

Delegering van bevoegdhede en aanwysing van inspekteurs deur sekretaris.

5. Die sekretaris kan—
(a) 'n bevoegdheid wat deur hierdie Wet aan hom verleen word, behalwe 'n bevoegdheid bedoel in artikel 6, aan een of aan meer as een beampte van die Departement van Handel deleger;
(b) beamptes van die Departement van Handel as inspekteurs aanwys om onderworpe aan sy beheer die werksaamhede van inspekteurs kragtens hierdie Wet te verrig.

Verstreking van inligting aan sekretaris deur sekere persone.

6. (1) Die sekretaris kan van tyd tot tyd ten opsigte van 'n aangeleentheid wat in hierdie Wet vermeld word, by skriftelike kennisgewing, deur die pos bestel of oorhandig, iemand aansê om voor 'n datum in die kennisgewing vermeld die inligting wat in die kennisgewing aangevra word en met so iemand se besigheid in verband staan, skriftelik aan die sekretaris te verstrek: Met dien verstande dat inligting wat verlang word met die oog op die uitoefening van 'n bevoegdheid wat kragtens hierdie Wet aan die Minister of die komitee verleen word alleen in opdrag van en namens die Minister of die komitee, na gelang van die geval, aangevra kan word.

(2) Niemand mag in antwoord op 'n kennisgewing bedoel in subartikel (1) inligting verstrek wat in wesentlike opsigte vals of onjuis is nie.

(3) Inligting verstrek ingevolge subartikel (1) word aan niemand bekend gemaak nie behalwe vir die doeleindes van hierdie Wet, of in 'n geregshof tydens 'n vervolging wat ingevolge hierdie Wet ontstaan.

Bevoegdhede van inspekteurs.

7. (1) 'n Inspekteur aan wie die sekretaris skriftelik inspeksiebevoegdhede verleen het, kan ondersoek instel om die inligting wat die sekretaris verlang, in te win of om vas te stel of die bepalings van hierdie Wet nagekom word of is, en kan vir daardie doel te alle redelike tye—

- (a) 'n plek betree of binnegaan ten opsigte waarvan hy rede het om te glo dat—
 - (i) daarop of daarin goedere, boeke of ander stukke is; of
 - (ii) dit in verband staan met goedere, 'n diens, boeke of ander stukke,
 waarop die bepalings van hierdie Wet van toepassing is;
- (b) goedere, boeke of ander stukke inspekteer wat kragtens hierdie Wet geïnspekteer kan word, of gelas dat goedere, boeke of ander stukke vir die doeleindes van inspeksie tot sy beskikking gestel word;

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(5) If any member of the committee dies, or resigns by notice in writing addressed to the Minister, the Minister may with due regard to the provisions of subsection (2), appoint any person as successor to such member for the unexpired period of office of such member.

3. (1) The committee shall meet at such times and places as the chairman or, if he is absent, the vice-chairman may determine. Meetings of committee.

(2) The quorum for and the procedure at any meeting of the committee shall be determined by the Minister: Provided that a quorum shall consist of not fewer than seven members and that persons in the employ of the State shall not constitute a majority of a quorum.

4. Any member of the committee who is not in the full-time employ of the State, shall in connection with the activities of the committee be paid such remuneration and allowances as may be determined generally or in any particular case by the Minister in consultation with the Minister of Finance. Remuneration and allowances of members of committee.

5. The secretary may—

- (a) delegate to one or to more than one officer of the Department of Commerce, any power conferred upon him by this Act, other than a power referred to in section 6; Delegation of powers and designation of inspectors by secretary.
- (b) designate officers of the Department of Commerce as inspectors to exercise, subject to his control, the functions of inspectors under this Act.

6. (1) The secretary may, from time to time, in respect of any matter specified in this Act, by notice in writing, sent by post or delivered, order any person to furnish in writing, before a date specified in the notice, to the secretary any information requested in such notice and relating to the business of such person: Provided that any information desired with a view to the exercise of any power conferred upon the Minister or the committee under this Act, may only be requested on the instructions of and on behalf of the Minister or the committee, as the case may be. Furnishing of information to secretary by certain persons.

(2) No person shall in reply to a notice referred to in subsection (1) furnish information which is false or incorrect in material respects.

(3) Information furnished pursuant to subsection (1) shall not be disclosed to any person save for the purposes of this Act, or in a court of law in a prosecution arising in terms of this Act.

7. (1) Any inspector furnished with inspection authority in writing by the secretary, may conduct investigations to gather such information as the secretary may desire or to determine whether the provisions of this Act are being or have been complied with, and may for that purpose at all reasonable times— Powers of inspectors.

- (a) enter any place in respect of which he has reason to believe that—
 - (i) there are on or in it any goods, books or other documents; or
 - (ii) it is connected with any goods, service, books or other documents,
 to which the provisions of this Act are applicable;
- (b) inspect any goods, books or other documents which may be inspected under this Act, or order that, for the purposes of inspection, such goods, books or other documents be placed at his disposal;

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- (c) goedere, boeke of ander stukke wat op 'n vervolging kragtens hierdie Wet betrekking kan hê, in beslag neem en hou: Met dien verstande dat die persoon uit wie se besit of bewaring boeke of ander stukke geneem is toe dit aldus in beslag geneem is, op sy versoek toegelaat word om, solank sodanige boeke of ander stukke in die besit of bewaring van die betrokke inspekteur is, op eie koste, onder toesig van daardie inspekteur op enige redelike tydstop afskrifte van of uittreksels uit sodanige boeke of ander stukke te maak.

(2) Iemand in beheer van goedere, boeke of ander stukke wat deur 'n inspekteur bedoel in subartikel (1) geïnspekteer word, of 'n bestuurder, agent of werknemer van so iemand, moet op versoek van daardie inspekteur die hulp verleen wat nodig is om daardie goedere, boeke of ander stukke te inspekteer.

(3) Niemand mag—

- (a) versuim om op aanvraag enigiets in sy besit of onder sy beheer of op sy perseel wat betrekking kan hê op 'n inspeksie, tot die beskikking van 'n inspekteur bedoel in subartikel (1) te stel nie; of
- (b) versuim om te voldoen aan 'n bevel kragtens subartikel (1) (b) gegee of 'n versoek kragtens subartikel (2) gerig nie; of
- (c) 'n inspekteur bedoel in subartikel (1) by die uitoefening van sy bevoegdhede kragtens hierdie artikel hinder of dwarsboom nie; of
- (d) valslik voorgee dat hy 'n inspekteur bedoel in subartikel (1) is nie.

(4) 'n Inspekteur moet 'n kwitansie gee aan die eienaar of die persoon in beheer van enigiets wat kragtens hierdie artikel in beslag geneem en gehou is.

(5) 'n Inspekteur aan wie skriftelike inspeksiebevoegdhede beoog in subartikel (1) verleen is en wat 'n bevoegdheid ingevolge hierdie artikel uitoefen, moet op versoek van iemand wat deur sodanige uitoefening geraak word daardie inspeksiebevoegdhede aan so iemand toon.

Geheimhouding.

8. Niemand mag ten opsigte van 'n besigheid inligting wat hy by die uitvoering van sy pligte of werksaamhede ingevolge hierdie Wet te wete gekom het, bekend maak nie behalwe—

- (a) met die doel om sy pligte of werksaamhede ingevolge hierdie Wet uit te voer; of
- (b) wanneer dit ten opsigte van 'n strafgeding op bevel van 'n bevoegde hof of ingevolge 'n wetsbepaling vereis word; of
- (c) wanneer hy vooraf skriftelik daartoe gemagtig word deur die sekretaris of deur iemand wat namens en in opdrag van die betrokke besigheid handel.

Verbod op sekere advertensies, verklarings, mededelings, beskrywings en aanduidings.

9. Niemand mag—

- (a) 'n advertensie wat in wesentlike opsigte vals of misleidend is, publiseer of vertoon of laat publiseer of vertoon nie; of
- (b) in verband met die verkoop of verhuring van goedere, regstreeks of onregstreeks 'n verklaring of mededeling doen of beskrywing of aanduiding gee wat in wesentlike opsigte vals of misleidend is ten opsigte van die aard, eienskappe, voordele of gebruike van daardie goedere of ten opsigte van die wyse of voorwaardes waarop of die pryse waarteen daardie goedere gekoop, gehuur of andersins verkry kan word nie;
- (c) in verband met die lewering of verskaffing van 'n diens, regstreeks of onregstreeks 'n verklaring of mededeling doen of beskrywing of aanduiding gee wat in wesentlike

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- (c) seize and retain any goods, books or other documents which may relate to any prosecution under this Act: Provided that the person from whose possession or custody books or other documents were taken when it were so seized, shall, as long as such books or other documents are in the possession or custody of the inspector concerned, at his request be allowed, at his own expense and under supervision of the inspector, to make copies of or take extracts from such books or other documents at any reasonable time.

(2) Any person in charge of any goods, books or other documents which are being inspected by any inspector referred to in subsection (1), or any manager, agent or employee of such person, shall at the request of any such inspector render such assistance as may be necessary for the inspection of such goods, books or other documents.

(3) No person shall—

- (a) fail on demand to put at the disposal of any inspector referred to in subsection (1), anything in his possession or under his control or on his premises which may relate to any inspection; or
- (b) fail to comply with any order given under subsection (1) (b) or any request made under subsection (2); or
- (c) hinder or obstruct any inspector referred to in subsection (1) in the exercise of his powers under this section; or
- (d) falsely hold himself out to be an inspector referred to in subsection (1).

(4) Any inspector shall issue a receipt to the owner or the person in control of anything seized and retained under this section.

(5) Any inspector who has been furnished with inspection authority in writing contemplated in subsection (1) and who exercises any power in terms of this section, shall, at the request of any person affected by such exercising, produce such inspection authority to such person.

8. No person shall in respect of any business disclose any **Secrecy.** information which came to his knowledge in the performance of his duties or functions in terms of this Act, except—

- (a) for the purpose of performing his duties or functions in terms of this Act; or
- (b) when required by order of any competent court or in terms of any law in respect of criminal proceedings; or
- (c) when authorized beforehand thereto in writing by the secretary or any person acting on behalf of and on the instructions of the business in question.

9. No person shall—

- (a) publish or display any advertisement which is false or misleading in material respects or cause such advertisement to be published or displayed; or
- (b) in connection with the sale or leasing of goods, directly or indirectly make any statement or communication or give any description or indication which is false or misleading in material respects in respect of the nature, properties, advantages or uses of such goods or in respect of the manner in, conditions on or prices at which such goods may be purchased, leased or otherwise acquired; or
- (c) in connection with the rendering or provision of any service, directly or indirectly make any statement or communication or give any description or indication

Prohibition of certain advertisements, statements, communications, descriptions and indications.

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opsigte vals of misleidend is ten opsigte van die aard, eienskappe, voordele of gebruike van daardie diens of ten opsigte van die wyse of voorwaardes waarop of prys waarteen daardie diens gelewer of verskaf word nie.

Verbod op gee, lewering, verkoop of publikasie van handelskoepons in verband met verkoop van goedere of lewering of verskaffing van dienste.

10. Behoudens die bepalings van artikel 11 mag niemand—

- (a) in verband met die verkoop of verhuring van goedere of die lewering of verskaffing van 'n diens, 'n handelskoepon lewer of gee, of aanbied of belowe om 'n handelskoepon te lewer of te gee nie; of
- (b) 'n handelskoepon verkoop by dieselfde transaksie waarby hy ander goedere verkoop of verhuur of 'n diens lewer of verskaf nie; of
- (c) aan iemand wat betrokke is by die verkoop of verhuring van goedere of by die lewering of verskaffing van 'n diens, 'n handelskoepon verkoop, lewer of gee om uitgegee te word in verband met die verkoop of verhuring van daardie goedere of die lewering of verskaffing van daardie diens nie; of
- (d) 'n handelskoepon in 'n nuusblad, dagblad, tydskrif, vlugskrif, boek of ander drukwerk publiseer nie,

indien dit 'n voorwaarde van daardie handelskoepon is dat die persoon aan wie dit gelewer, gegee, aangebied of belowe word, goedere moet koop of huur of van 'n diens ten opsigte waarvan hy 'n teenprestasie moet gee, gebruik moet maak alvorens hy geregtig is om enige betrokke bate te ontvang of om aan 'n kompetisie om so 'n bate deel te neem.

Uitsonderings.

11. Die bepalings van artikel 10 word nie so uitgelê nie dat 'n verbod geplaas word op—

- (a) die betaling of die aanbod aan iemand wat betrokke is by die verkoop of distribusie of verhuring van goedere of by die lewering of verskaffing van 'n diens, van 'n kommissie of besoldiging ten opsigte van sy dienste; of
- (b) die toestaan van 'n korting op 'n prys of huurgeld wat 'n koper of huurder vir goedere of iemand vir die lewering of verskaffing van 'n diens betaal of moet betaal, of die aanbod om so 'n korting toe te staan; of
- (c)
 - (i) die lewering of gee aan 'n koper of huurder van goedere, van 'n dokument of teken wat die houer daarvan die reg gee om op aanvraag 'n som geld wat in verhouding is tot die prys of huurgeld wat vir daardie goedere betaal is, te ontvang; of
 - (ii) die lewering of gee aan iemand wat van 'n diens gebruik maak, van 'n dokument of teken wat die houer daarvan die reg gee om op aanvraag 'n som geld wat in verhouding is tot die prys wat vir die lewering of verskaffing van daardie diens betaal is, te ontvang:

Met dien verstande dat die verhouding, en die persoon deur wie en die plek waar sodanige som geld betaal sal word, duidelik op die dokument of teken vermeld moet word; of

- (d) die lewering aan of die verkryging deur iemand wat betrokke is by die verkoop of verhuring van goedere of by die lewering of verskaffing van 'n diens, van die dokumente of tekens bedoel in paragraaf (c) sodat, behoudens die bepalings van hierdie Wet, sodanige dokumente of tekens in verband met die verkoop of verhuring van daardie goedere of die lewering of verskaffing van daardie diens uitgereik kan word; of
- (e) die lewering of die gee aan 'n koper of huurder van goedere, van 'n dokument of teken wat die houer daarvan die reg gee om op aanvraag, na sy keuse, of 'n

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which is false or misleading in material respects in respect of the nature, properties, advantages or uses of such service or in respect of the manner in, conditions on or prices at which such service is rendered or provided.

10. Subject to the provisions of section 11, no person shall—
- (a) in connection with the sale or leasing of any goods or the rendering or provision of any service, supply or give, or offer or promise to supply or give, any trade coupon; or
 - (b) sell any trade coupon by the same transaction at which he sells or leases any other goods or renders or provides any service; or
 - (c) sell, supply or give to any person engaged in the sale or leasing of any goods or in the rendering or provision of any service, any trade coupon to be issued in connection with the sale or leasing of such goods or the rendering or provision of such service; or
 - (d) publish any trade coupon in any newspaper, journal, magazine, pamphlet, book or other printed matter, if it is a condition of such trade coupon that the person to whom it is supplied, given, offered or promised, must buy or hire any goods or make use of any service in respect of which he must give any consideration before he is entitled to receive, or to participate in any competition for, any relevant benefit.

Prohibition of delivery, sale or publication of trade coupons in connection with sale of goods or rendering or provision of services.

11. The provisions of section 10 shall not be so construed as to prohibit—

- (a) the payment or offer of any commission or remuneration in respect of his services to any person engaged in the sale or leasing or distribution of any goods or in the rendering or provision of any service; or
- (b) the allowance of a discount on the price or rental paid or payable by any purchaser or lessee for any goods or any person for the rendering or provision of any service, or the offer to allow any such discount; or
- (c) (i) the supply or giving to any purchaser or lessee of any goods, of a document or token entitling the holder thereof to receive on demand payment of a sum of money bearing a proportion to the price or rental paid for such goods; or
 - (ii) the supply or giving to any person making use of any service, of a document or token entitling the holder thereof to receive on demand payment of a sum of money bearing a proportion to the price paid for the rendering or provision of such service:

Provided that the proportion, and the person by whom and the place at which such sum of money will be paid, shall be clearly set forth on the document or token; or

- (d) the supply to or the acquisition by any person engaged in the sale or leasing of goods or in the rendering or provision of any service, of the documents or tokens referred to in paragraph (c) in order that, subject to the provisions of this Act, such documents or tokens may be issued in connection with the sale or leasing of such goods or the rendering or provision of any such service; or
- (e) the supply or giving to a purchaser or lessee of any goods, of a document or token entitling the holder thereof to receive on demand, at his option, either a

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som geld òf goedere daarop vermeld, te ontvang: Met dien verstande dat—

- (i) die goedere waarop aldus aanspraak gemaak kan word, geproduseer of vervaardig is deur die produsent of vervaardiger van die gekoopte of gehuurde goedere en van dieselfde soort is as die gekoopte of gehuurde goedere of vervaardig is uit grondstowwe wat in hoofsaak van dieselfde soort is as die grondstowwe waaruit die gekoopte of gehuurde goedere vervaardig is; en
- (ii) die persoon deur wie en die plek waar sodanige som geld betaal of sodanige goedere gelewer sal word, duidelik op die dokument of teken vermeld moet word; of
- (f) die verkoop, lewering of gee deur iemand wat goedere verkoop of lewer aan iemand wat by die verkoop of verhuring van goedere betrokke is, van dokumente of tekens bedoel in paragraaf (c) (i) of (e), op voorwaarde dat daardie dokumente of tekens nie deur hom uitgegee of van die hand gesit mag word nie, behalwe in verband met die verkoop of verhuring van goedere wat deur eersgenoemde persoon aldus aan hom verkoop of gelewer is; of
- (g) die insluiting in enige drukwerk van 'n versekeringspolis of 'n onderneming om 'n versekeringspolis kosteloos of teen 'n verlaagde tarief te gee, mits so 'n polis of onderneming nie in verband staan met die verkoop van ander goedere as daardie drukwerk nie; of
- (h) die gee of die aanbod aan 'n koper of huurder van goedere, of aan 'n persoon wat van 'n diens gebruik maak, van 'n waarborg, 'n onderneming om 'n diens te lewer of te verskaf of enige ander onderneming, mits daardie waarborg of onderneming gegee of aangebied word ten opsigte van en alleen betrekking het op goedere wat deur daardie koper of huurder gekoop of gehuur is of op die diens wat aan daardie persoon gelewer of verskaf is.

Verbod of beperking op gee of lewering van bates.

12. (1) Die Minister kan, behoudens die bepalinge van artikel 16, in verband met die verkoop of verhuring van goedere of die lewering of verskaffing van 'n diens, by kennisgewing in die *Staatskoerant* die gee of lewering van 'n bate verbied of ten opsigte daarvan die voorwaardes oplaê wat hy goedvind.

(2) Verskillende kennisgewings kan ingevolge subartikel (1) ten opsigte van verskillende goedere, dienste of bates gepubliseer word.

Aanduidings ten opsigte van pryse van goedere en lewering of verskaffing van dienste.

13. (1) Niemand wat goedere verkoop of verhuur, mag in 'n advertensie of op 'n ander wyse—

- (a) 'n vals of misleidende aanduiding gee dat daardie goedere deur hom verkoop of verhuur word teen 'n prys wat gelyk is aan of laer is as 'n gidsprys of as die prys waarteen daardie of soortgelyke goedere voorheen deur hom verkoop of verhuur is nie; of
- (b) 'n aanduiding gee dat daardie goedere deur hom verkoop of verhuur word teen 'n prys wat laer is as die prys waarteen daardie goedere in werklikheid deur hom verkoop of verhuur word nie.

(2) Niemand wat 'n diens lewer of verskaf, mag in 'n advertensie of op 'n ander wyse—

- (a) 'n vals of misleidende aanduiding gee dat daardie diens deur hom gelewer of verskaf word teen 'n prys wat gelyk is aan of laer is as die prys waarteen daardie of 'n soortgelyke diens voorheen deur hom gelewer of verskaf is nie; of

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sum of money or goods specified therein: Provided that—

- (i) the goods so claimable have been produced or manufactured by the producer or manufacturer of the goods purchased or leased and are of the same kind as the goods purchased or leased or have been manufactured from materials substantially of the same kind as the materials from which the goods purchased or leased were manufactured; and
- (ii) the person by whom and the place at which such sum of money or such goods will be paid or delivered, shall be clearly set forth on the document or token; or
- (f) the sale, supply or giving by any person who sells or supplies goods to any person engaged in the sale or leasing of any goods, of documents or tokens referred to in paragraph (c) (i) or (e) on condition that such documents or tokens shall not be issued or disposed of by him otherwise than in connection with the sale or leasing of the goods so sold or supplied to him by the first-mentioned person; or
- (g) the inclusion in any printed matter of any policy of insurance or any undertaking to give any policy of insurance free or at a reduced rate provided such policy or undertaking is not connected with the sale of goods, not being such printed matter; or
- (h) the giving or the offer to any purchaser or lessee of goods, or to any person who makes use of a service, of any warranty, any undertaking to render or provide any service or any other undertaking if such warranty or undertaking is given or offered in respect of and applies only to goods purchased or leased by such purchaser or lessee or to the service rendered or provided to such person.

12. (1) Subject to the provisions of section 16, the Minister may, in connection with the sale or leasing of any goods or the rendering or provision of any service, by notice in the *Gazette* prohibit the giving or supply of any benefit or impose in respect thereof such conditions as he may think fit.

Prohibition or restriction of giving or supply of benefits.

(2) Different notices may in terms of subsection (1) be published in respect of different goods, services or benefits.

13. (1) No person who sells or leases goods shall, in any advertisement or in any other way—

Indications in respect of prices of goods and rendering or provision of services.

- (a) give a false or misleading indication that such goods are sold or leased by him at a price which is equal to or less than a guide price or than the price at which such or similar goods were previously sold or leased by him; or
- (b) give an indication that such goods are sold or leased by him at a price which is less than the price at which such goods are actually sold or leased by him.

(2) No person who renders or provides any service shall in any advertisement or in any other way—

- (a) give a false or misleading indication that such service is rendered or provided by him at a price which is equal to or less than the price at which such or any similar service was previously rendered or provided by him; or

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- (b) 'n aanduiding gee dat daardie diens deur hom gelewer of verskaf word teen 'n prys wat laer is as die prys waarteen daardie diens in werklikheid deur hom gelewer of verskaf word nie.

Besonderhede ten opsigte van advertensies.

14. (1) Die Minister kan, behoudens die bepalings van artikel 16, by kennisgewing in die *Staatskoerant* die besonderhede (met inbegrip van aanduidings, beskrywings of afbeeldings) voorskryf wat ten opsigte van die—

- (a) aard, eienskappe, voordele of gebruike van goedere of 'n diens; of
(b) die wyse of voorwaardes waarop of die pryse waarteen goedere gekoop, gehuur of andersins verkry kan word of 'n diens gelewer of verskaf word,

deel moet uitmaak of nie deel mag uitmaak nie van 'n advertensie waarin daardie goedere of diens geadverteer word.

(2) Verskillende kennisgewings kan ingevolge subartikel (1) ten opsigte van verskillende besonderhede, goedere, dienste, of advertensies gepubliseer word.

Verbod op sekere handelspraktyke.

15. (1) Indien die Minister van oordeel is dat 'n handelspraktyk—

- (a) verhoudinge tussen besighede en persone wat by die verkoop of verhuring van goedere of by die lewering of verskaffing van 'n diens betrokke is; of

(b) verhoudinge tussen besighede en verbruikers, regstreeks of onregstreeks kan skaad en oortuig is dat dit in die belang van daardie persone of verbruikers of besighede nodig of dienstig is dat daardie handelspraktyk verbied, beperk of beheer moet word, kan die Minister, behoudens die bepalings van artikel 16, by kennisgewing in die *Staatskoerant* daardie handelspraktyk verbied of ten opsigte daarvan die voorwaardes oplê wat hy goedvind.

(2) Verskillende kennisgewings kan ingevolge subartikel (1) ten opsigte van verskillende handelspraktyke, goedere of dienste gepubliseer word.

Voorvereistes vir publikasie van sekere kennisgewings.

16. (1) Voor die publikasie van 'n kennisgewing kragtens artikel 12, 14 of 15 moet die Minister—

- (a) 'n voorlopige kennisgewing in die *Staatskoerant* laat publiseer—

(i) wat die strekking van die kennisgewing wat hy voornemens is om kragtens die betrokke artikel te publiseer, uiteensit; en

(ii) waarin alle belanghebbende persone versoek word om besware en verdoë in verband met die voorgestelde kennisgewing voor 'n datum in die voorlopige kennisgewing vermeld, wat 'n datum moet wees nie vroeër nie as dertig dae na die datum van publikasie van bedoelde voorlopige kennisgewing, skriftelik by die sekretaris in te dien;

- (b) bedoelde voorlopige kennisgewing en verdoë en besware wat ingevolge paragraaf (a) (ii) ingedien is, aan die komitee voorlê.

(2) Die komitee moet die stukke wat ingevolge subartikel (1) (b) aan hom voorgelê is, oorweeg en ten opsigte daarvan skriftelik 'n aanbeveling aan die Minister doen.

(3) Na oorweging van 'n aanbeveling bedoel in subartikel (2) maar nie later nie as ses maande na die datum waarop bedoelde aanbeveling deur die komitee gedoen is, kan die Minister die betrokke kennisgewing kragtens artikel 12, 14 of 15, na gelang van die geval, in die *Staatskoerant* publiseer: Met dien verstande dat, indien die Minister so 'n kennisgewing publiseer, die strekking van daardie kennisgewing nie in wesentlike opsig mag verskil van die strekking van 'n aanbeveling wat deur die komitee kragtens subartikel (2) ten opsigte daarvan gedoen is nie.

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- (b) give an indication that such service is rendered or provided by him at a price which is less than the price at which such service is actually rendered or provided by him.

14. (1) Subject to the provisions of section 16, the Minister may by notice in the *Gazette* prescribe the particulars (including indications, descriptions or depictions) which in respect of—

Particulars in respect of advertisements.

- (a) the nature, properties, advantages or uses of any goods or service; or
- (b) the manner in, conditions on or prices at which goods may be purchased, hired or otherwise acquired or any service is rendered or provided,

shall form part or shall not form part of any advertisement in which such goods are or service is advertised.

(2) Different notices may in terms of subsection (1) be published in respect of different particulars, goods, services or advertisements.

15. (1) If the Minister is of the opinion that any trade practice may directly or indirectly injure—

Prohibition of certain trade practices.

- (a) the relations between businesses and persons who are engaged in the sale or leasing of any goods or in the rendering or provision of any service; or
- (b) the relations between businesses and consumers,

and is satisfied that it is necessary or expedient in the interests of such persons or consumers or businesses that such trade practice be prohibited, restricted or controlled, the Minister may, subject to the provisions of section 16, by notice in the *Gazette* prohibit such trade practice or impose in respect thereof such conditions as he may think fit.

(2) Different notices may in terms of subsection (1) be published in respect of different trade practices, goods or services.

16. (1) Before the publication of any notice under section 12, 14 or 15 the Minister shall—

Prerequisites for the publication of certain notices.

- (a) cause to be published in the *Gazette* a provisional notice—
 - (i) stating the purport of the notice which he intends to publish under the section in question; and
 - (ii) in which all interested persons are requested to lodge objections or representations regarding the proposed notice, in writing with the secretary before a date specified in the provisional notice, which shall be a date not earlier than thirty days after the date of publication of the said provisional notice;
- (b) submit to the committee the said provisional notice and any representations and objections lodged in terms of paragraph (a) (ii).

(2) The committee shall consider the documents submitted to it in terms of subsection (1) (b) and shall make in respect thereof a recommendation in writing to the Minister.

(3) After consideration of any recommendation referred to in subsection (2), but not later than six months after the date upon which the said recommendation was made by the committee, the Minister may publish the notice in question in the *Gazette* under section 12, 14 or 15, as the case may be: Provided that, if the Minister publishes any such notice, the purport of such notice shall not in any material respect differ from the purport of any recommendation made by the committee under subsection (2) in respect thereof.

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(4) 'n Aanbeveling bedoel in subartikel (2) word deur die Minister in die *Staatskoerant* gepubliseer nie later as die datum van die publikasie van die kennisgewing waarop daardie aanbeveling betrekking het nie.

Tydlike verbod
of beheer ten
opsigte van sekere
bates en handels-
praktyke.

17. (1) Die sekretaris kan, op aanbeveling van die komitee en vir 'n tydperk van hoogstens ses maande, by kennisgewing in die *Staatskoerant*—

(a) die gee of lewering van 'n bate in verband met die verkoop of verhuring van goedere of die lewering of verskaffing van 'n diens; of

(b) 'n handelspraktyk wat, na die oordeel van die komitee—

(i) verhoudinge tussen besighede en persone wat by die verkoop of verhuring van goedere of by die lewering of verskaffing van 'n diens betrokke is; of

(ii) verhoudinge tussen besighede en verbruikers, regstreeks of onregstreeks kan skaad, indien die komitee oortuig is dat dit in die belang van daardie persone of verbruikers nodig of dienstig is om daardie handelspraktyk te verbied of te beheer,

verbied of voorwaardes ten opsigte daarvan op lê indien 'n kennisgewing kragtens artikel 12 of 15, na gelang van die geval, nog nie ten opsigte van daardie bate of handelspraktyk gepubliseer is nie.

(2) 'n Kennisgewing wat kragtens subartikel (1) gepubliseer is, verval indien 'n kennisgewing kragtens artikel 12 of 15, na gelang van die geval, gepubliseer word ten opsigte van 'n bate of handelspraktyk in eersbedoelde kennisgewing vermeld.

(3) Verskillende kennisgewings kan kragtens subartikel (1) ten opsigte van verskillende bates, handelspraktyke, goedere of dienste gepubliseer word.

(4) Die komitee kan 'n aanbeveling bedoel in subartikel (1) uit eie beweging of op versoek van iemand anders doen: Met dien verstande dat indien so 'n versoek deur die sekretaris gerig word, die komitee verplig is om daardie versoek te oorweeg, en daarop kan hy so 'n aanbeveling doen of met skriftelike verstreking van redes weier om dit te doen.

Spesiale verwer.

18. (1) Behoudens die bepalinge van subartikel (2) word niemand weens 'n misdryf kragtens hierdie Wet skuldig bevind nie indien hy bewys dat die handeling of versuim wat hom ten laste gelê word en wat daardie misdryf uitmaak, te wyte is aan—

(a) 'n redelike dwaling deur hom ten opsigte van die relevante feite; of

(b) die feit dat hy redelikerwys staatgemaak het op inligting wat deur 'n ander persoon aan hom verstrekk is.

(2) Iemand wat weens 'n misdryf ingevolge hierdie Wet aangekla word en wat voornemens is om by sy verhoor aan te voer dat—

(a) die handeling of versuim wat hom ten laste gelê word en wat daardie misdryf uitmaak, te wyte is aan die feit dat hy redelikerwys staatgemaak het op inligting wat deur 'n ander persoon aan hom verstrekk is; of

(b) daardie misdryf deur 'n ander persoon gepleeg is, moet minstens sewe dae voor die datum van sy verhoor die aanklaer skriftelik in kennis stel van sy voorneme tesame met enige inligting tot sy beskikking wat daardie ander persoon kan identifiseer of daartoe kan bydra om hom te identifiseer: Met dien verstande dat die hof wat so iemand verhoor die versuim om die aanklaer aldus in kennis te stel, kan kondoneer.

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(4) Any recommendation referred to in subsection (2) shall be published by the Minister in the *Gazette* not later than the date of the publication of the notice to which such recommendation relates.

17. (1) The secretary may, on the recommendation of the committee and for a period not exceeding six months, by notice in the *Gazette* prohibit, or impose conditions in respect of—

Temporary prohibition or control in respect of certain benefits and trade practices.

- (a) the giving or supply of any benefit in connection with the sale or leasing of any goods or the rendering or provision of any service; or
- (b) any trade practice which, in the opinion of the committee, may directly or indirectly injure—
 - (i) the relations between businesses and persons engaged in the sale or leasing of any goods or in the rendering or provision of any service; or
 - (ii) the relations between businesses and consumers, if the committee is satisfied that, in the interest of such persons or consumers, it is necessary or expedient to prohibit or control such trade practice,

if a notice under section 12 or 15, as the case may be, has not yet been published in respect of such benefit or trade practice.

(2) Any notice published under subsection (1) shall lapse if a notice under section 12 or 15, as the case may be, is published in respect of any benefit or trade practice mentioned in the first-mentioned notice.

(3) Different notices may in terms of subsection (1) be published in respect of different benefits, trade practices, goods or services.

(4) The committee may make a recommendation referred to in subsection (1) of its own accord or at the request of any other person: Provided that if any such request is made by the secretary, the committee shall be obliged to consider such request, and thereupon it may make such a recommendation or refuse to make it for such reasons as it may furnish in writing.

18. (1) Subject to the provisions of subsection (2), no person shall be convicted of any offence under this Act if he proves that the act or omission with which he is charged and which constitutes such offence is due to—

Special defences.

- (a) a reasonable mistake by him in respect of the relevant facts; or
- (b) the fact that he relied reasonably upon any information given to him by any other person.

(2) Any person charged with any offence under this Act and who intends to allege at his trial that—

- (a) the act or omission with which he is charged and which constitutes such offence is due to the fact that he relied reasonably on information given to him by any other person; or
- (b) such offence was committed by any other person,

shall advise the prosecutor, at least seven days before the date of his trial, in writing of his intention together with any information at his disposal which may identify, or be of aid in the identification of, such other person: Provided that the court trying such person may condone the failure to advise the prosecutor in the said manner.

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(3) Niemand word skuldig bevind weens 'n misdryf kragtens artikel 9 (a) nie indien hy bewys—

- (a) dat dit sy beroep of besigheid is om advertensies te publiseer of te vertoon of te laat publiseer of vertoon; en
- (b) dat hy te goeder trou en in die gewone loop van sake die betrokke advertensie gepubliseer of vertoon het of laat publiseer of vertoon het en dat hy nie geweet het nie en daar nie redelikerwys van hom verwag kon word om te geweet het nie dat daardie advertensie in wesentlike opsigte vals of misleidend was.

Misdrywe en strawwe.

19. Iemand wat 'n bepaling van hierdie Wet oortree of versuim om daaraan te voldoen, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweeduisend rand of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar of met sowel daardie boete as daardie gevangenisstraf.

Beperking op vervolging.

20. Niemand word weens 'n misdryf kragtens hierdie Wet aangekla nie indien 'n tydperk van een jaar verloop het na die datum waarop daardie misdryf gepleeg is.

Beperking op instelling van sekere eise.

21. Niemand kan ten opsigte van 'n handelskoepen of bate wat in stryd met 'n bepaling van hierdie Wet aan hom gelewer of gegee is, regtens 'n eis instel nie.

Handeling of versuim deur bestuurders, agente of werknemers.

22. (1) Wanneer 'n bestuurder, agent of werknemer van iemand 'n handeling verrig of versuim om dit te verrig en dit 'n misdryf kragtens hierdie Wet sou wees indien so iemand dit verrig of versuim om dit te verrig, dan, tensy daar bewys word dat—

- (a) by die verrigting van daardie handeling of die versuim om dit te verrig, daardie bestuurder, agent of werknemer sonder die oogluikende toelating of die toestemming van so iemand gehandel het; en
- (b) so iemand alle redelike stappe gedoen het om so 'n handeling of die versuim om so 'n handeling te verrig, te voorkom; en
- (c) die ten laste gelegde handeling of versuim, hetsy wettig of onwettig, nie binne die bestek van die bevoegdheid of in die loop van die diens van daardie bestuurder, agent of werknemer geval het nie,

word daar vermoed dat so iemand self daardie handeling verrig het of versuim het om dit te verrig, en kan hy ten opsigte daarvan skuldig bevind en gestraf word, en die feit dat hy bevele uitgereik het om so 'n handeling of versuim te verbied, word nie op sigself as genoegsame bewys aanvaar dat hy alle redelike stappe gedoen het om so 'n handeling of versuim te voorkom nie.

(2) Wanneer 'n bestuurder, agent of werknemer van iemand 'n handeling verrig of versuim om dit te verrig en dit 'n misdryf kragtens hierdie Wet sou wees indien so iemand dit verrig of versuim om dit te verrig, kan daardie bestuurder, agent of werknemer ten opsigte daarvan skuldig bevind word asof hy so iemand was.

Toepassing van Wet in Suidwes-Afrika.

23. Hierdie Wet en 'n wysiging daarvan is ook van toepassing in die gebied Suidwes-Afrika, met inbegrip van die Oostelike Caprivi Zipfel.

Herroeping van Wet 18 van 1935.

24. Die Handelskoeponwet, 1935 (Wet No. 18 van 1935), word hierby herroep.

Kort titel en inwerkingtreding.

25. (1) Hierdie Wet heet die Wet op Handelspraktyke, 1975, en die bepalings daarvan tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) ten opsigte van verskillende bepalings van hierdie Wet bepaal word.

TRADE PRACTICES ACT, 1976

Act No. 76, 1976

(3) No person shall be convicted of any offence under section 9 (a) if he proves—

- (a) that it is his occupation or business to publish or display or cause to be published or displayed advertisements; and
- (b) that he published or displayed or caused to be published or displayed the advertisement in question in good faith and in the ordinary course of business and that he did not know and could not reasonably be expected to have known that such advertisement was false or misleading in material respects.

19. Any person who contravenes or fails to comply with any provision of this Act, shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment. Offences and penalties.

20. No person shall be prosecuted for any offence under this Act if a period of one year has expired from the date on which such offence was committed. Limitation of prosecution.

21. No person shall have any right of action in respect of any trade coupon or benefit supplied or given to him in contravention of any provision of this Act.

22. (1) Whenever any manager, agent or employee of any person does or omits to do any act which it would be an offence under this Act for such person to do or omit to do, then, unless it is proved that— Limitation of institution of certain actions.

- (a) in doing or omitting to do that act, such manager, agent or employee was acting without the connivance or the permission of such person; and Acts or omissions by managers, agents or employees.
- (b) all reasonable steps were taken by such person to prevent any such act or the omission to do any such act; and
- (c) the act or omission charged, whether lawful or unlawful, was not within the scope of the authority or in the course of the employment of such manager, agent or employee,

such person shall be presumed himself to have done or omitted to do that act and shall be liable to be convicted and sentenced in respect thereof, and the fact that he issued instructions forbidding any such act or omission shall not of itself be sufficient proof that he took all reasonable steps to prevent such act or omission.

(2) Whenever any manager, agent or employee of any person does or omits to do any act which it would be an offence under this Act for such person to do or omit to do, such manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he were such person.

23. This Act and any amendment thereof shall apply also in the territory of South West Africa, including the Eastern Caprivi Zipfel. Application of Act to South West Africa.

24. The Trade Coupons Act, 1935 (Act No. 18 of 1935), is hereby repealed. Repeal of Act 18 of 1935.

25. (1) This Act shall be called the Trade Practices Act, 1975, and the provisions thereof shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. Short title and commencement.

(2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.