

**Department of Trade and Industry
Consumer and Competition Policy Directorate**

Guidance Note - The Trade Descriptions Act 1968

The Trade Descriptions Act 1968 came into effect on 30 November 1968. It replaced and expanded the old Merchandise Marks laws dealing with mis-description of goods in general and its particular job is to ensure, as far as possible, that people tell the truth about goods, prices and services.

A copy of the complete text of the Trade Descriptions Act can be obtained from The Stationery Office.

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What the 1968 Act does:

This Act makes it an offence if a trader –

- 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; or
- c. Makes certain kinds of false statement about the provision of any services, accommodation or facilities.

False Trade Description

For the purposes of this Act a trade description is an indication as to any one of a number of matters listed in the Act. The quantity, size or gauge of goods ('this bedspread is 70"x 90"). How they were made or processed ('hand-sewn'). What they are made of ('solid brass'). Their fitness for purpose, strength, performance, behaviour or accuracy ('unbreakable'). Any other physical characteristics which they possess ('fitted with disc brakes'). A statement that the goods have been tested or approved by any person ('this encyclopaedia has been approved by your local education authority'). Where they were made ('made in England'). When they were made ('18th century

mirror'). Who made them ('Van Gogh painting'). Any other information about their history ('reconditioned: Government surplus stock').

To be an offence the indication must be false to a material degree. It is not enough for it just to contain a quite insignificant inaccuracy. It must be applied to the goods in question, whether in writing or by means of an illustration, symbol or other marking on the goods themselves, on containers, labels, showcards, in advertisements, etc, or in an oral statement.

False indications by a trader of Royal patronage or approval of his goods or services are also covered by the Act. So are false indications that goods or services are of a kind supplied to any person (e.g. 'as supplied to the National Theatre').

False Statements about Services, Accommodation or Facilities

The Act covers statements about one or more of a number of listed matters - the provision or services, accommodation or facilities; their nature; the time at which they are provided; how they are provided or who provides them; their examination, approval or evaluation by a person; where accommodation is provided or what amenities it has. Here again the statement must be false to a material degree. Spoken as well as written statements, including statements in advertisements, are covered.

Not every statement about services etc. which turns out to be wrong is covered. A trader commits an offence only if the statement is false when it is made, and the trader knows it to be false or makes it recklessly, not caring whether it is true or false.

If a trader offers to provide a service, but fails to do so, you may have a right to sue him for breach of contract, but the Act is not involved.

Generally speaking, statements about houses are outside the scope of the Act unless they relate to such matters as holiday accommodation. Nor is the Act directly concerned with the question of compensation which is normally a matter for the civil law. However as a result of the criminal Justice Act 1972 a court which convicts a person of an offence under the Trade Descriptions Act may, if it sees fit to do so, also make a compensation order in favour of the victim of the offence.

Enforcement

Local Trading Standards authorities are under a statutory duty to enforce the provisions of this Act and the Act gives them power of entry, inspection and seizure to help them do it.

If, as a consumer, you think that the law is being broken, let your local Trading Standards authority know. It is not their job to get you compensation for any disappointment you may have suffered, but they can investigate and take whatever steps they deem necessary to prevent others being deceived.

If as a trader you need advice on what to do to comply with the law, your local Trading Standards authority will be able to help.
The address of the nearest office of the local Trading Standards authority will be obtainable at the town hall or civic centre.

Definition and Marking Orders

Powers are available under the 1968 Act by which definitions of the words traders use to describe their goods or services could be laid down. Orders could also be made requiring goods to be marked with or accompanied by information necessary for consumers of the goods, or for such information to appear in any advertisement for the goods.

Wise Shopping - General Information

The Act means that if a trader gives factual information about his goods voluntarily, or makes other statements because he is obliged to by an Order under the Act he must get it right. But if he does not say something, be careful about drawing your own conclusions about the goods. If the facts which matter to you are not already stated, ask about them.

Think before you buy - it's much easier and more satisfactory than sorting out the problem later.

If you are dissatisfied with your purchase - and this is, of course, quite a separate question from whether there has been a breach of the Act - take the matter up with the shopkeeper in the first place. If he will do nothing, it may be worth writing to the manufacturer (although generally speaking he is under no legal obligation to you).

If you need assistance, talk to your local Citizen's Advice Bureau (they run an advisory service for consumers), or, if your local authority has a consumer advisory service, to them.

If you consider that you are asking no more than your legal rights, in the last resort it is up to you to enforce them by taking the trader to court in a civil action - no one else can do that on your behalf. Before considering legal action, you may want to know about the Legal Advice Scheme and about Legal Aid. Your Citizens' Advice Bureau or Consumer Advisory Service will be able to give you details. The address will be available from the town hall or civic centre.

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