

## Fair Trading Amendment Act 1994

### An Act to amend the Fair Trading Act 1986

**1994, No. 124**

[9 December 1994]

#### ANALYSIS

##### Title

1. Short Title and commencement
2. Certain conduct in relation to trade marks prohibited
3. Importation of goods bearing false trade description

BE IT ENACTED by the Parliament of New Zealand as follows:

#### **1. Short Title and commencement—**

(1) This Act may be cited as the Fair Trading Amendment Act 1994, and shall be read together with and deemed part of the Fair Trading Act 1986 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council; and one or more orders may be made bringing different provisions into force on different dates.

#### **2. Certain conduct in relation to trade marks prohibited—**

Section 16 of the principal Act (as amended by section 33 of the Trade Marks Amendment Act 1987) is hereby amended by omitting the word “mark” in each place where it appears as a single word, and substituting in each case the word “sign”.

#### **3. Importation of goods bearing false trade description—**

(1) The principal Act is hereby amended by repealing section 26, and substituting the following section:

“26.

(1) This section applies to any goods to which a false trade description is applied.

“(2) All goods to which this section applies are hereby prohibited to be imported into New Zealand, and shall be deemed to be included among goods prohibited to be imported under section 48 of the Customs Act 1966 and the provisions of that Act shall apply to such goods accordingly.

“(3) In this section, ‘false trade description’ means any representation which if made in connection with the supply or possible supply of goods or with the promotion by any means of the supply or use of goods would constitute a contravention of section 13 (a), (d), or (j) of this Act.

“(4) For the purposes of subsection (1) of this section, a false trade description shall be deemed to be applied to goods if—

- “(a) It is woven ill, impressed on, worked into, or annexed or axed to the goods; or
- “(b) It is applied to a covering, label, reel, or thing in or with which the goods are supplied.

“(5) For the purposes of this section, a trade mark is not a representation.

(2) Nothing in this section applies to or affects any proceedings in relation to goods that were deemed to be prohibited imports under section 48 of the Customs Act 1966 by virtue of section 26 (2) of the principal Act (as in force before the commencement of this section) where those proceedings were commenced before the commencement of this section, and any such proceedings shall continue as if this section had not been enacted.

This Act is administered in the Ministry of Commerce.

<p><b>Source:</b> World Intellectual Property Organization <a href="http://www.wipo.int">http://www.wipo.int</a></p>
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