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GOVERNMENT GAZETTE

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KAAPSTAD, 9 JUNIE 1978

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1195.

9 June 1978.

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

No. 78 of 1978: Trade Practices Amendment Act, 1978.

No. 1195.

9 Junie 1978.

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

No. 78 van 1978: Wysigingswet op Handelspraktyke, 1978.

Wet No. 78, 1978

WYSIGINGSWET OP HANDELSPRAKTYKE, 1978.

ALGEMENE VERDUIDELIKENDE NOTA:

- []** Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die bepalings van die Wet op Handelspraktyke, 1976, betreffende woordskrywings; om voorsiening te maak vir die aanstelling van subkomitees deur die Handelspraktyke-advieskomitee; en vir die aanwysing van persone om bedoelde komitee en subkomitees van advies te dien; om die bevoegdheid van die Sekretaris van Handel betreffende die aanvra van sekere inligting uit te brei; om die verkoop, lewering en gee in sekere omstandighede van sekere handelskoepons te beheer of te verbied; om aan die Sekretaris van Handel die bevoegdheid te verleen om tydelike voorskrifte te publiseer betreffende sekere besonderhede wat deel moet uitmaak of nie deel mag uitmaak nie van sekere advertensies; om aan die Minister van Ekonomiese Sake die bevoegdheid te verleen om persone van die bepalings van bedoelde Wet vry te stel; om 'n foutiewe datum reg te stel; en om vir bykomstige aangeleenthede voorsiening te maak.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 29 Mei 1978.)

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

Wysiging van
artikel 1 van
Wet 76 van 1976.

1. Artikel 1 van die Wet op Handelspraktyke, 1976 (hieronder die Hoofwet genoem), word hierby gewysig deur die volgende omskrywing na die omskrywing van „sekretaris” in te voeg: 5
- „subkomitee” ’n subkomitee wat ingevolge artikel 4A aangestel is;”.

Invoeging van
artikels 4A en 4B in
Wet 76 van 1976.

2. Die volgende artikels word hierby in die Hoofwet na artikel 4 ingevoeg: 10

„Aanstelling
van subko-
mitees.

4A. (1) Die komitee kan uit sy lede een of meer as een subkomitee aanstel en kan enige bevoegdheid wat kragtens hierdie Wet aan die komitee verleen word, behalwe die bevoegdheid om 'n aanbeveling ingevolge artikel 16 of 17 te doen, aan 'n subkomitee delegeer, maar word nie onthef van 'n bevoegdheid wat aldus gedelegeer is nie. 15

(2) Een van die lede van 'n subkomitee word deur die komitee as voorsitter daarvan aangewys.

(3) 'n Subkomitee vergader op die tye en plekke wat sy voorsitter bepaal. 20

(4) Die kworum vir en die prosedure by 'n vergadering van 'n subkomitee word deur die komitee bepaal. 25

Adviseurs
vir komitee
en subkomitees.

4B. (1) Die Minister kan op versoek van die komitee die persoon of persone wat hy goedvind, aanwys om die komitee, met inbegrip van 'n subkomitee, van advies te dien in verband met enige

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GENERAL EXPLANATORY NOTE:

[Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the provisions of the Trade Practices Act, 1976, relating to definitions; to provide for the appointment of subcommittees by the Trade Practices Advisory Committee; and for the appointment of persons to advise the said committee and subcommittees; to extend the power of the Secretary for Commerce regarding the request of certain information; to control or prohibit the sale, delivery and giving of certain trade coupons in certain circumstances; to authorize the Secretary for Commerce to publish temporary directions regarding certain particulars which should form part or should not form part of certain advertisements; to authorize the Minister of Economic Affairs to exempt persons from the provisions of the said Act; to rectify an incorrect date; and to provide for incidental matters.

(Afrikaans text signed by the State President.)

(Assented to 29 May 1978.)

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

1. Section 1 of the Trade Practices Act, 1976 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "service" of the following definition:

Amendment of
Section 1 of
Act 76 of 1976.

"subcommittee" means a subcommittee appointed in terms of section 4A;"

2. The following sections are hereby inserted in the principal Act after section 4:

Insertion of
sections 4A
and 4B in
Act 76 of 1976.

4A. (1) The committee may appoint from its members one or more than one subcommittee and may delegate any power conferred upon it under this

15 (2) One of the members of a subcommittee shall be appointed as chairman thereof by the committee.

20 (3) A subcommittee shall meet at such times and places as its chairman may determine.

(4) The quorum for and the procedure at any meeting of a subcommittee shall be determined by the committee.

25 **4B.** (1) The Minister may at the request of the committee designate such person or persons as he may deem fit, to advise the committee, including any subcommittee, on any matter concerning any power

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aangeleentheid wat betrekking het op 'n bevoegdheid wat kragtens hierdie Wet aan die komitee verleen of aan 'n subkomitee gedelegeer word.

(2) Iemand wat ingevolge subartikel (1) aangewys is—

(a) bekleë sy amp—

(i) op die voorwaardes wat die Minister ten tyde van sy aanwysing bepaal;

(ii) totdat die werksaamhede van die komitee of 'n subkomitee, vir sover dit die aangeleentheid betref ten opsigte waarvan so iemand aldus aangewys is, afgehandel is tensy die Minister hom vroeër van sy amp onthef of hom daaruit ontslaan;

(b) word vir sover dit sodanige aangeleentheid betref, behalwe—

(i) dat hy, wanneer die komitee of 'n subkomitee 'n besluit neem, geen stemreg het nie;

(ii) vir die doeleindes van 'n kworum bedoel in artikel 3 (2) of 4A (4);

(iii) by die toepassing van artikel 4A (1) en (2), geag 'n lid van die komitee of 'n subkomitee, na gelang van die geval, te wees."

Wysiging van
artikel 6 van
Wet 76 van 1976.

3. Artikel 6 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(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 of 'n handelspraktijk of 'n handelskoepoon 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."

Wysiging van
artikel 11 van
Wet 76 van 1976.

4. Artikel 11 van die Hoofwet word hierby gewysig—

(a) deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

„Behoudens die bepalings van subartikel (2) word die bepalings van artikel 10 **[word]** nie so uitgelê nie dat 'n verbod geplaas word op—";

(b) deur die volgende subartikel by te voeg terwyl die bestaande artikel subartikel (1) word:

„(2) Indien die Minister van oordeel is dat die verkoop, lewering of gee, soos beoog in subartikel (1) (c), (e) of (f), van 'n dokument of teken of enige kategorie dokumente of tekens nie in belang is nie van die betrokke kopers, huurders of persone wat van 'n diens gebruik maak of by die verkoop of verhuring van goedere betrokke is, kan die Minister, behoudens die bepalings van artikel 16, by kennisgewing in die Staatskoerant sodanige verkoop, lewering of gee verbied of ten opsigte van sodanige verkoop, lewering of gee die voorwaardes oplê wat hy goedvind."

Wysiging van
artikel 16 van
Wet 76 van 1976.

5. Artikel 16 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

„Voor die publikasie van 'n kennisgewing kragtens artikel 11 (2), 12, 14 of 15 moet die Minister—";

(b) deur in subartikel (3) die woorde wat die voorbehoudsbepaling voorafgaan deur die volgende woorde te vervang:

„Na oorweging van 'n aanbeveling bedoel in subartikel (2) maar nie later nie as ses maande na die datum

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conferred upon the committee or delegated to a subcommittee in terms of this Act.

(2) Any person appointed in terms of subsection

(1)—

5 (a) shall hold office—

(i) on such conditions as the Minister, at the time of his designation, may determine;

10 (ii) until the activities of the committee or a subcommittee are disposed of in so far as the matter is concerned in respect of which such person has been so designated,

unless the Minister on an earlier date has discharged or dismissed him from office:

15 (b) shall be deemed, in so far as such matter is concerned, to be a member of the committee or a subcommittee, as the case may be, except—

(i) that he shall not be entitled to vote when the committee or a subcommittee is taking any decision;

20 (ii) for the purposes of a quorum referred to in section 3 (2) or 4A (4);

(iii) for the purposes of section 4A (1) and (2).”

25 3. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of
section 6 of
Act 76 of 1976.

“(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 or to a business practice or to a trade coupon: 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.”

4. Section 11 of the principal Act is hereby amended—

Amendment of
section 11 of
Act 76 of 1976.

(a) by the substitution for the words preceding paragraph (a) of the following words:

40 “Subject to the provisions of subsection (2), the provisions of section 10 shall not be so construed as to prohibit—”;

(b) by the addition of the following subsection, the existing section becoming subsection (1):

45 “(2) If the Minister is of the opinion that the sale, delivery or giving, as contemplated in subsection (1) (c), (e) or (f), of any document or token or any category of documents or tokens is not in the interest of the relevant purchasers, lessees or persons making use of any service or engaged in the sale or leasing of any goods, the Minister may, subject to the provisions of section 16, by notice in the *Gazette* prohibit such sale, delivery or giving or impose in respect of such sale, delivery or giving such conditions as he may deem fit.”

55 5. Section 16 of the principal Act is hereby amended—

Amendment of
section 16 of
Act 76 of 1976.

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Before the publication of any notice under section 11 (2), 12, 14 or 15 the Minister shall—”;

60 (b) by the substitution in subsection (3) for the words preceding the proviso of the following words:

“After consideration of any recommendation referred to in subsection (2), but not later than six months after

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waarop bedoelde aanbeveling deur die komitee gedoen is, kan die Minister die betrokke kennisgewing kragtens artikel 11 (2), 12, 14 of 15, na gelang van die geval, in die *Staatskoerant* publiseer."

Vervanging van
artikel 17 van
Wet 76 van 1976.

6. Artikel 17 van die Hoofwet word hierby deur die volgende 5
artikel vervang:

„Tydelike
verbod of
beheer ten
opsigte van
sekere
dokumente,
tekens,
bates en
handels-
praktyke
en tydelike
voorskrifte
ten opsigte
van beson-
derhede in
advertensies.

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 verkoop, lewering of gee, soos beoog in 10
artikel 11 (1) (c), (e) of (f), van 'n dokument of
teken of enige kategorie dokumente of tekens
verbied of ten opsigte van sodanige verkoop,
lewering of gee voorwaardes oplê indien die
komitee oortuig is dat sodanige verkoop, lewe- 15
ring of gee nie in belang is nie van die betrokke
kopers, huurders of persone wat van 'n diens
gebruik maak of by die verkoop of verhuring van
goedere betrokke is; of

(b) (i) die gee of lewering van 'n bate in verband 20
met die verkoop of verhuring van goedere
of die lewering of verskaffing van 'n diens;
of

[(b)] (ii) 'n handelspraktyk wat, na die oordeel van 25
die komitee—

[(i)] (aa) verhoudinge tussen besighede en per-
sone wat by die verkoop of verhuring
van goedere of by die lewering of
verskaffing van 'n diens betrokke is; of

[(ii)] (bb) verhoudinge tussen besighede en ver- 30
bruikers,

regstreeks of onregstreeks kan skaad, indien
die komitee oortuig is dat dit in die belang
van daardie persone of verbruikers of be-
sighede nodig of dienstig is om daardie 35
handelspraktyk te verbied of te beheer,
verbied of voorwaardes ten opsigte daarvan oplê;
of

(c) die besonderhede (met inbegrip van aanduidings,
beskrywings of afbeeldings) voorskryf wat ten 40
opsigte van die—

(i) aard, eienskappe, voordele of gebruike van
goedere of 'n diens; of

(ii) die wyse of voorwaardes waarop of die
pryse waarteen goedere gekoop, gehuur of 45
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, 50

indien 'n kennisgewing kragtens artikel 11 (2), 12, 14
of 15, na gelang van die geval, nog nie ten opsigte
van daardie verkoop, lewering of gee, bate, beson-
derhede of handelspraktyk gepubliseer is nie.

(2) 'n Kennisgewing wat kragtens subartikel (1) 55
gepubliseer is, verval indien 'n kennisgewing kragtens
artikel 11 (2), 12, 14 of 15, na gelang van die geval,
gepubliseer word ten opsigte van **['n']** enige verkoop,
lewering of gee, bate, besonderhede of handelsprak-
tyk in eersbedoelde kennisgewing vermeld. 60

(3) Verskillende kennisgewings kan kragtens subar-
tikel (1) ten opsigte van verskillende dokumente of
tekens of kategorieë dokumente of tekens, bates,
besonderhede, handelspraktyke, goedere of dienste
gepubliseer word. 65

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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 11 (2), 12, 14 or 15, as the case may be."

5 6. The following section is hereby substituted for section 17 of the principal Act:

Substitution of
section 17 of
Act 76 of 1976.

10 "Temporary prohibition or control in respect of certain documents, tokens, benefits and trade practices and tempo-
15 rary direc- tions in respect of particulars in advertise- ments.

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

(a) prohibit or impose conditions in respect of the sale, delivery or giving, as contemplated in section 11 (1) (c), (e) or (f), of any document or token or any category of documents or tokens, if the committee is satisfied that such sale, delivery or giving is not in the interest of the relevant purchasers, lessees or persons making use of a service or engaged in the sale or leasing of any goods; or

(b) prohibit or impose conditions in respect of—

(i) 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

25 **[(b)]** (ii) any trade practice which, in the opinion of the committee, may directly or indirectly injure—

[(i)] (aa) 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)] (bb) the relations between businesses and consumers,

if the committee is satisfied that, in the interest of such persons or consumers or businesses, it is necessary or expedient to prohibit or control such trade practice; or

(c) prescribe the particulars (including indications, descriptions or depictions) which in respect of—

(i) the nature, properties, advantages or uses of any goods or service; or

(ii) 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 or service are advertised,

if a notice under section 11 (2), 12, 14 or 15, as the case may be, has not yet been published in respect of such sale, delivery, giving, benefit, particulars or trade practice.

(2) Any notice published under subsection (1) shall lapse if a notice under section 11 (2), 12, 14 or 15, as the case may be, is published in respect of any sale, delivery, giving, benefit, particulars or trade practice mentioned in the firstmentioned notice.

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

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(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 verstrekking van redes weier om dit te doen."

Invoeging van
artikel 21A in
Wet 76 van 1976.

7. Die volgende artikel word hierby in die Hoofwet na artikel 21 ingevoeg:

„Vrystellings. 21A. Die Minister kan, op aanbeveling van die komitee, op die voorwaardes wat dienstig geag word, iemand by kennisgewing in die Staatskoerant of by skriftelike kennisgewing, deur die pos bestel of oorhandig, van enige van of al die bepalings van hierdie Wet vrystel.”

Wysiging van
artikel 25 van
Wet 76 van 1976.

8. Artikel 25 van die Hoofwet word hierby gewysig deur die 15 uitdrukking „1975” deur die uitdrukking „1976” te vervang.

Kort titel.

9. Hierdie Wet heet die Wysigingswet op Handelspraktyke, 1978.

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- 5 (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.”.

10 7. The following section is hereby inserted in the principal Act after section 21: Insertion of section 21A in Act 76 of 1976.

- 15 “Exemptions. 21A. The Minister may on the recommendation of the committee by notice in the *Gazette* or by notice in writing, sent by post or delivered by hand, on such conditions as may be deemed fit, exempt any person from any of or all the provisions of this Act.”.

8. Section 25 of the principal Act is hereby amended by the substitution for the expression “1975” of the expression “1976”. Amendment of section 25 of Act 76 of 1976.

9. This Act shall be called the Trade Practices Amendment Act, 1978. Short title.

(3) 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 as it thinks fit for such reasons as it may think fit.

7. The following section is hereby inserted in the principal Act:—
 21A. The Minister may on the recommendation of the committee by notice in the Gazette or by notice in writing, sent by post or delivered by hand, on such conditions as may be deemed fit exempt any person from any of or all the provisions of the Act.

8. Section 25 of the principal Act is hereby amended by the substitution for the expression "1977" of the expression "1978".

9. This Act shall be called the Trade Practices Amendment Act, 1978.