

Consumer Information Act, 1978

Number 1 of 1978 -

CONSUMER INFORMATION ACT, 1978

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Number 1 of 1978

CONSUMER INFORMATION ACT, 1978

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO INFORMATION GIVEN IN CONNECTION WITH GOODS, SERVICES, ACCOMMODATION OR FACILITIES, PROVIDED IN THE COURSE OF TRADE, TO PROVIDE FOR THE ESTABLISHMENT OF THE OFFICE OF DIRECTOR OF CONSUMER AFFAIRS, TO PROVIDE FOR THE POWERS AND FUNCTIONS OF THE OFFICE AND TO PROVIDE FOR RELATED MATTERS. [21st February, 1978]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1. (1) In this Act

- accommodation* means living accommodation;
- the Acts* means the Merchandise Marks Acts, 1887 to 1970;
- advertisement* includes a catalogue, a circular and a price list;
- the Director* means the holder of the office of Director of Consumer Affairs established by section 9 of this Act;
- goods* includes ships, vehicles and aircraft, land, things attached to land and growing crops;
- the Minister* means the Minister for Industry, Commerce and Energy;
- place* includes any premises and any stall, vehicle, ship or aircraft;
- the Principal Act* means the Merchandise Marks Act, 1887;

□*provide*□ in relation to a service or facility includes □*render*□ and cognate words shall be construed accordingly;

□*service*□ includes any service provided by a person in the practice of a profession;

□*services*□ does not include anything done under a contract of service;

□*supply*□ includes offer to supply and cognate words shall be construed accordingly.

(2) For the purposes of the Acts and this Act, a trade description or statement published in any newspaper, book or periodical or in any film or sound or television broadcast shall be deemed to be a trade description applied or statement made in the course of a trade, business or profession if, but only if, it is or forms part of an advertisement.

(3) A person exposing goods for supply or having goods in his possession for supply shall be deemed, for the purposes of this Act, to offer to supply them.

Extension of definitions of □*trade description*□ and □*false trade description*□ in Principal Act.

2. □(1) Section 3 (1) of the Principal Act is hereby amended by the substitution for the definition of □*trade description*□ of the following definition:

□□*trade description*□ means any description, statement or other indication, direct or indirect□

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(a) as to the number, quantity, measure, gauge, capacity or weight of any goods, or

(b) as to the place or country in which any goods were manufactured, produced, processed, reconditioned, repaired, packed or prepared for sale, or

(c) as to the mode of manufacturing, producing, processing, reconditioning, repairing, packing or preparing for sale of any goods, or

(d) as to the person by whom and the time at which any goods were manufactured, produced, processed, reconditioned, repaired, packed or prepared for sale, or

(e) as to the material of which any goods are composed, or

(f) as to any goods being the subject of an existing patent, privilege or copyright, or

(g) as to the fitness for any purpose, strength, performance, behaviour or accuracy of any goods, or

(h) as to any physical characteristic of any goods not referred to in the preceding paragraphs of this definition, or

- (i) as to the conformity of any goods with any standard or their passing of any test or their commendation by any person, or
- (j) as to the identity of the supplier or distributor, or the standing, commercial importance, competence or capabilities of, the manufacturer, producer, supplier or distributor, of any goods, or
- (k) as to the contents of books or as to their authors, as to the contents of cinematograph films (within the meaning of the Performers' Protection Act, 1968) or as to their producers or as to the contents of recordings (within the meaning of the Performers' Protection Act, 1968) or as to the performers on such recordings, or
- (l) as to any history of any goods not referred to in the preceding paragraphs of this definition, including their previous ownership,

and the use of any figure, word or mark which, according to the custom of the trade is commonly taken to be an indication of any of the above matters shall be deemed to be a trade description within the meaning of this Act;□

- (2) (a) The definition of □*false trade description*□ in the said section 3 (1) shall be construed as if the references to false in a material respect were references to false to a material degree and included references to misleading to a material degree.
- (b) In paragraph (a) of this subsection □*misleading to a material degree*□ means likely to be taken for such an indication of any of the matters specified in the definition of □*trade description*□ in the said section 3 (1) of the Principal Act as would be false to a material degree.
- (c) Anything which, though not a trade description, is likely to be taken for an indication of any of the matters specified in the definition of □*trade description*□ in the said section 3 (1) and, as such an indication, would be false in a material respect, shall be deemed to be a false trade description.
- (d) A false indication or anything likely to be taken as an indication which would be false that any goods comply with a standard specified or recognised by any person or implied by the approval of any person shall be deemed to be a false trade description, if there is no such person or no standard so specified, recognised or implied.

Termination
of certain
defences
under

3.□(1) In a prosecution of a person for an offence under section 2 (1) of the Principal Act as amended by this Act in relation to the application to goods of a false trade description or the causing of

Principal Act.

such an application to be made, it shall not be a defence for the person to prove that he acted without intent to defraud.

(2) In a prosecution of a person for an offence under section 2 (2) of the Principal Act as amended by this Act in relation to the sale, exposure for sale or having in possession for sale in the course of any trade, business or profession of goods or things to which a false trade description is applied, it shall not be a defence for the person to prove the matters specified in paragraphs (a), (b) and (c) of the said section 2 (2).

(3) This section is without prejudice to section 22 of this Act.

Provision in relation to application and use of trade descriptions.

4. (1) Section 2 (1) of the Principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

(d) in the course of any trade, business or profession, applies any false trade description to goods, or

(2) Section 2 (2) of the Principal Act is hereby amended insofar as it relates to trade descriptions, by the substitution of in the course of any trade, business or profession for or any purpose of trade or manufacture.

(3) Section 5 of the Principal Act is hereby amended, insofar as it relates to trade descriptions, by the substitution for subsection (1) of the following subsection:

(1) (a) A person shall be deemed to apply a trade description to goods if

(i) he affixes or annexes it to them or in any manner marks it on or incorporates it with

(I) the goods themselves, or

(II) anything in, on or with which the goods are sold,

(ii) he places the goods in, on or with anything to, on or with which the trade description has been affixed, annexed, marked or incorporated or places any such thing with the goods.

(b) A person shall also be deemed to have applied a trade description to goods if he uses the trade description in any manner likely to be taken as referring to the goods.

(c) Where goods are sold in pursuance of a request in which a trade description is used and the circumstances are such as to make it

reasonable to infer that the goods are sold as goods corresponding to that trade description, the person selling the goods shall be deemed to have applied that trade description to the goods.

(d) An oral statement may amount to the use of a trade description. □.

Trade descriptions in advertisements.

5. □(1) Where a trade description is used in an advertisement in relation to any class of goods, the trade description shall be taken as referring to all goods of that class, whether or not in existence at the time the advertisement is published.

(2) In determining for the purposes of this section whether any goods are of a class to which a trade description used in an advertisement relates regard shall be had not only to the form and content of the advertisement but also to the time, place, manner and frequency of its publication and all other matters making it likely or unlikely that a person to whom the goods are sold would think of the goods as belonging to the class in relation to which the trade description is used in the advertisement.

False or misleading statements as to services, etc.

6. □(1) If a person, in the course or for the purposes of a trade, business or profession □

(a) makes a statement which he knows to be false, or

(b) recklessly makes a statement which is false

as to any of the following matters, that is to say □

(i) the provision in the course of the trade, business or profession of any services, accommodation or facilities,

(ii) the nature, effect or fitness for purpose of any services, accommodation or facilities provided in the course of the trade, business or profession,

(iii) the time at which, manner in which or persons by whom any services, accommodation or facilities are so provided,

(iv) the examination, approval, use or evaluation by any person of any services, accommodation or facilities so provided, or

(v) the place where any service, facility or accommodation is so provided or the amenities of any such accommodation,

he shall be guilty of an offence.

(2) For the purposes of this section

(a) anything (whether or not a statement as to any of the matters specified in the preceding subsection) likely to be taken for such a statement as to any of those matters as would be false shall be deemed to be a false statement as to that matter; and

(b) a statement made regardless of whether it is true or false shall be deemed to be made recklessly, unless the person making it had adequate reasons for believing that it was true.

(3) In relation to any services consisting of or including the application of any treatment or process or the carrying out of any repair, the matters specified in subsection (1) of this section shall be taken to include the effect of the treatment, process or repair.

(4) In this section *false* means false to a material degree.

False or misleading indications of prices or charges.

7. (1) If a person offering to supply goods of any description or provide any services or accommodation gives by any means a false or misleading indication of

(a) the price or charge for the goods, services or accommodation,

(b) the price or charge at or for which the goods or goods of the same description or the services or accommodation were or was previously offered,

(c) a recommended price for the goods, or

(d) any charge for installation of or servicing of the goods or any price for ancillary equipment reasonably required for the

purpose of the use or enjoyment of the goods,

he shall be guilty of an offence.

(2) For the purposes of this section

(a) an indication that goods, services or accommodation were or was previously offered at a different price or charge or at a particular price or charge shall be treated, unless the contrary is expressed, as an indication that they were so offered openly at the same place within the preceding 3 months for not less than 28 successive days;

(b) an indication as to a recommended price

(i) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended by the manufacturer, producer or other supplier, and

(ii) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended generally for supply by retail in the area where the goods are offered;

(c) anything likely to be taken as an indication as to a recommended price or as to the price or charge at or for which goods, services or accommodation were or was previously offered shall be treated as such an indication;

(d) a person advertising goods, services or accommodation as available for supply or provision shall be taken as offering to supply or provide them or it; and

(e) an indication of the price or charge at or for which any goods, services or accommodation are or is offered by a person shall be treated, unless the contrary is expressed, as an indication that those goods, services or accommodation are or is offered at or for that price or charge in every place in the State where those goods, services or accommodation are or is offered by the person:

Provided that, where such an indication is given at the place where the goods, services or accommodation are offered, the indication shall be treated, unless the contrary is expressed, as relating only to the goods, services or accommodation offered at that place.

Misleading advertisements.

8. (1) A person shall not publish, or cause to be published, an advertisement in relation to the supply or provision in the course or for the purposes of a trade, business or profession, of goods, services or facilities if it is likely to mislead, and thereby cause loss, damage or injury to members of the public to a material degree.

(2) Any person who contravenes subsection (1) of this section shall, subject to the provisions of this Act, be guilty of an offence.

(3) The Director may, upon giving notice of the application to any person against whom the order the subject of the application is sought, apply to the High Court for, and may, at the discretion of that Court, be granted, an order prohibiting the publication, or the further publication, of an advertisement the publication of which is or would be a contravention of subsection (1) of this section.

Director of Consumer Affairs.

9. (1) There shall stand established the office of Director of Consumer Affairs and the holder of the office shall be known as the Director of Consumer Affairs.

(2) The office of Director shall be a position in the Civil Service and no person shall be appointed to the office unless the Civil Service Commissioners, within the meaning of the Civil Service Commissioners Act, 1956, after holding a competition under section 15 of that Act, have, under section 17 of that Act, selected him for appointment to the office.

(3) A person appointed to be the Director shall hold office for a period of five years but the Minister may, if he thinks fit, continue the appointment (including an appointment previously continued under this subsection) for such further period not exceeding five years as he considers appropriate.

(4) (a) The Director may be removed from office at any time by the Minister.

(b) If the Director is removed from office under this sub-section, the Minister shall cause to be laid before each House of

the Oireachtas a statement of the reasons for the removal.

(5) The Director shall be independent in the performance of his functions.

(6) The functions of the Director shall be □

(a) to keep under general review practices or proposed practices in relation to the advertising of, and the provision to members of the public of information in relation to and descriptions of, goods, services, accommodation and facilities,

(b) to carry out examinations of any such practices or proposed practices where the Minister requests him to carry out examinations or where the Director considers that, in the public interest, such examinations are proper,

(c) to request persons engaging in or proposing to engage in such practices that are, or are likely to be, misleading to members of the public in a material matter, to discontinue or refrain from such practices,

(d) to institute proceedings in the High Court for orders requiring persons engaging or proposing to engage in such practices that are, or are likely to be, misleading to members of the public in a material matter to discontinue or refrain from such practices,

(e) to request persons engaging in or proposing to engage in such practices to make such alterations of or deletions from, or provide such definitions of, expressions that are, or are proposed to be, used in or in connection with such practices, as would, in the opinion of the Director, increase the precision of, or the amount of information contained in, the expressions, or facilitate the understanding of the expressions,

(f) to encourage and promote the establishment and adoption of codes of standards in relation to such practices,

(g) to ensure that the provisions of any legislation providing for the protection

of consumers that, in his opinion, should be brought to the attention of the public are brought to the attention of the public and for this purpose to publicise those provisions in such manner and to such extent as he thinks appropriate,

(h) without prejudice to the powers or functions of any other prosecuting authority, to bring or prosecute proceedings in relation to offences under the Acts or this Act.

(7) The Minister may by order under this section confer on the Director such further functions as he considers appropriate in respect of any matters to which the Acts or this Act or any other enactment making provision for the protection of consumers relates.

(8) The Director may do all such acts or things as are necessary or expedient for the purposes of the exercise of his functions under this Act.

(9) Where proceedings are instituted by the Director pursuant to subsection (6) (d) of this section and the Director has, prior to the institution of the proceedings, made a request under subsection (6) (c) of this section to the persons concerned and the request has not been complied with, the Director may, at the discretion of the High Court, be granted an order by that Court in the appropriate terms referred to in the said subsection (6) (d) if the practices or proposed practices that are the subject of the proceedings are, or are likely to be, misleading to members of the public in a material matter.

(10) The Director may perform such of his functions as he may deem proper through or by any officer of the Minister duly authorised by the Director in that behalf.

(11) (a) Whenever it appears to the Minister that the Director is temporarily unable to discharge his duties, the Minister may appoint a person to act in place of the Director during such inability or for such shorter period as the Minister thinks proper.

(b) A person appointed under paragraph (a) of this sub-section shall have all the powers, rights and duties conferred on the Director by this Act and each reference in this Act to the Director

shall be deemed to include a reference to such a person.

(12) (a) The Director shall in each year make a report to the Minister in relation to the performance of his functions in the preceding year and the Minister shall, within one year of receipt by him of the report, cause copies of the report to be laid before each House of the Oireachtas.

(b) The Director shall furnish to the Minister such information regarding the performance of his functions as the Minister may from time to time require.

Marking orders. **10.** (1) Where it appears to the Minister to be necessary or expedient in the interest of persons to whom goods of any description are supplied that the goods should be marked with or accompanied by any information (whether or not amounting to or including a trade description or the name and address of the manufacturer, producer or other supplier of the goods) or instructions relating to the goods, the Minister may, subject to the provisions of this Act, by order impose requirements for securing that goods of that description are so marked or accompanied, and regulate or prohibit the supply of goods in relation to which the requirements are not complied with, and the requirements may extend to the form and manner in which the information or instruction is to be given.

(2) A person who, in the course of any trade or business, supplies or offers to supply goods of a description in relation to which an order is for the time being in force under this section in contravention of the order shall, subject to the provisions of this Act, be guilty of an offence.

(3) An order under this section may make different provisions for different circumstances and may, in the case of goods supplied in circumstances where apart from such an order the information or instruction required by the order would not be conveyed until after delivery of the goods, require also that the whole or part thereof be displayed near the goods.

Advertising orders.

11. (1) Where it appears to the Minister to be necessary or expedient in the interest of persons to whom goods, services, accommodation or facilities, of any description are to be supplied or provided that advertisements or any class of advertisements of the goods, services, accommodation or facilities

should contain or refer to any information (whether or not amounting to or including a trade description or the name and address of the publisher of an advertisement or his agent or any person procuring the publication of the advertisement or his agent) relating to the goods, services, accommodation or facilities, the Minister may, subject to the provisions of this Act, by order impose requirements as to the inclusion of that information, or of an indication of the means by which it may be obtained, in advertisements, or in such classes of advertisements as may be specified in the order, of the goods, services, accommodation or facilities, of that description.

(2) An order under this section may specify the form and manner in which any such information or indication as is specified in sub-section (1) of this section is to be included in advertisements or in advertisements of any class specified in the order and may make different provision for different circumstances and different classes of advertisements.

(3) Where an advertisement fails to comply with any requirement imposed under this section, any person who publishes the advertisement shall, subject to the provisions of this Act, be guilty of an offence.

Definition orders.

12. Where it appears to the Minister to be necessary or expedient in the interest of persons to whom goods, services, accommodation or facilities, of any description are supplied or provided that any words or expressions used in relation to the goods, services, accommodation or facilities should be understood as having definite meanings, the Minister may by order assign meanings either

(a) to those words or expressions when used in the course of a trade or business, as, or as part of, a trade description applied to goods, services, accommodation or facilities, of that description, or

(b) to those words or expressions when so used in such circumstances as may be specified in the order,

and where such a meaning stands so assigned to a word or expression, it shall be deemed for the purposes of this Act to have that meaning when used in the manner mentioned in paragraph (a) or (b), as the case may be, of this section.

Ascertainment of names and

addresses of
advertisers.

13. (1) Where an advertisement in relation to the supply or provision of any goods, services, accommodation or facilities is published and does not include the name and address of the person who procured such publication or his agent, the publisher of the advertisement shall, if the Director or an officer of the Minister or an officer of a council of a county or corporation of a county or other borough in whose functional area the publisher has a place of business so requests within 12 months of the publication of the advertisement, give to the Director or officer, the name and address of such person or his agent.

(2) A person to whom information is given pursuant to a request under subsection (1) of this section shall not give the information to another person other than for the purposes of this Act.

(3) A person who contravenes subsection (1) or (2) of this section shall be guilty of an offence.

Provision of
weighing
facilities in
places where
food sold by
retail.

14. (1) A person who offers food for sale by retail by weight (other than food packed for such sale by its manufacturer or producer or by the person who supplied it for such sale) in any place in the course of any trade or business shall provide in a prominent position in a part of the place to which, for the purpose of such sales, the public have access, a weighing scales or weighing machine, and shall permit any person to weigh or observe the weighing of any food sold by retail or for sale by retail at the place (being food which that person has bought or is buying or about to buy) on the scales or machine.

(2) A weighing scales or weighing machine provided pursuant to this section shall be deemed, for the purposes of the Weights and Measures Acts, 1878 to 1961, to be being used for trade.

(3) A person who contravenes subsection (1) of this section shall be guilty of an offence.

Prohibition or
prevention of
persons from
reading retail
prices.

15. (1) A person shall not, without reasonable cause, prevent another person from, or interfere with or obstruct another person who is

(a) entering a place where goods are offered for sale in the course of any trade or business for the purpose of reading any prices displayed on, with or in relation to the goods, or

(b) reading any prices displayed as aforesaid, if the prices of the goods are not

displayed (whether outside the place or elsewhere) so as to be capable of being read by the person while at or near the place without entering the place.

(2) A person who contravenes subsection (1) of this section shall be guilty of an offence.

Powers of authorised officers.

16. (1) In this section "authorised officer" means

(a) a whole-time officer of the Minister authorised in writing by the Minister, or

(b) a whole-time officer of the council of a county or corporation of a county or other borough authorised in writing by the council or corporation in relation to its functional area,

to exercise, for the purpose of the Acts and this Act, the powers conferred by this section.

(2) The authorisation of an authorised officer shall indicate the matters in respect of which he may act under this section.

(3) An authorised officer may, for the purpose of obtaining any information which may be required in order to enable the Minister or the Director or the council of a county or the corporation of a county or other borough, as the case may be, to exercise his or its functions under the Acts or this Act, on production of the officer's authorisation, if so required

(a) at all reasonable times enter premises at which any trade or business or any activity in connection with a trade or business is carried on and inspect the premises and any goods on the premises and, on paying or making tender of payment therefor, take any of the goods,

(b) require any person who carries on such trade, business or activity and any person employed in connection therewith to produce to the officer any books, documents or records relating to such trade, business or activity which are in that person's power or control and to give him such information as he may reasonably require in regard to any entries in such books, documents and records,

(c) inspect and copy or take extracts from such books, documents and records,

(d) require any such person to give to the officer any information the officer may require in regard to the persons carrying on such trade, business or activity (including, in particular, in the case of an unincorporated body of persons, information in regard to the membership thereof and of its committee of management or other controlling authority) or employed in connection therewith,

(e) require any such person to give to the officer any other information which the officer may reasonably require in regard to such activity.

(4) A person who obstructs or impedes an authorised officer in the exercise of a power, or does not comply with a requirement, under this section shall be guilty of an offence under this Act.

Penalties.

17. (1) A person guilty of an offence under the Acts involving a trade description or under this Act shall, in lieu of any other fine or term of imprisonment, be liable

(a) on summary conviction, to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment, or

(b) on conviction on indictment, to a fine not exceeding £10,000 or, at the discretion of the court, to imprisonment for a term not exceeding 2 years or to both the fine and the imprisonment.

(2) When considering what penalty (if any) under subsection (1) of this section is appropriate to an offence, the Court may take into consideration any advertisement published by or on behalf of the person convicted of the offence and correcting any misleading advertising, or any false or misleading description, statement or indication to which the offence relates.

(3) (a) Where a court imposes a fine or affirms or varies a fine imposed by another court for an offence referred to in subsection (1) of this section of which a person was

convicted summarily, it may, at its discretion, on the application (made before the time of such imposition or affirmation) of any person who was summoned as a witness on behalf of the prosecution in the proceedings in which the fine was imposed and who suffered personal injury, loss or damage resulting, wholly or partly, from the offence provide by order for the payment of the amount of the fine or of a specified part of it as compensation in respect of the injury, loss or damage to the person making the application.

(b) An application shall not lie under paragraph (a) of this subsection in respect of any personal injury, loss or damage if proceedings claiming damages for the injury, loss or damage have been instituted in any court.

(c) Where the whole or part of a fine imposed under this section is paid to a person pursuant to this subsection and the person is awarded damages by a court in respect of the personal injury, loss or damage to which the payment relates, the payment shall be deemed to be in satisfaction of so much of the damages as is equal to the amount of the payment.

Prosecution of offences.

18. (1) Proceedings in relation to an offence under the Acts involving a trade description or under this Act may be brought and prosecuted by the Minister or by the council of the county or the corporation of the county or other borough in which the offence is alleged to have been committed.

(2) Notwithstanding section 10 (4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under this Act may be instituted within 12 months from the date of the offence.

(3) Any expenses incurred by a council of a county, or the corporation of a county or other borough under this section shall be defrayed in the same manner as expenses incurred under section 19 of the Merchandise Marks Act, 1931, by a local authority specified in that section.

Offences in relation to bodies corporate

19. Where an offence under this Act which is committed by a body corporate or an unincorporated body of persons is proved to have

and unincorporated bodies.

been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any person (or any person acting on his behalf) being a director, manager, secretary, member of the committee of management or other controlling authority of any such body or being any other similar officer of any such body, that person or the person so acting as the case may be shall also be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Onus of proof.

20. Where, in any proceedings under the Acts involving a trade description or under this Act, the truth of any indication, direct or indirect and by whatever means given

(a) by a manufacturer, producer or other supplier thereof with respect to goods or the price of goods, or

(b) by a person providing services, accommodation or facilities with respect to the services, accommodation or facilities, or the charges for the services, accommodation or facilities,

is an issue, and the person who gave the indication does not establish that on the balance of probabilities the indication is true, it shall be presumed to be untrue.

Offences due to fault of other person.

21. Where the commission by any person of an offence under the Acts involving a false trade description, or an offence under this Act is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

Defences.

22. (1) In any proceedings for an offence under section 2 of the Principal Act involving a false trade description or an offence under this Act it shall, subject to subsection (2) of this section, be a defence for the person charged to prove

(a) that the commission of the offence was due to a mistake or the reliance on information supplied to him or to the act or default of another person, an accident or some other cause beyond his control; and

(b) that he took all reasonable precautions and exercised all due diligence to avoid the commission of such an offence by

himself or any other person under his control.

(2) If in any case the defence provided by subsection (1) of this section involves the allegation that the commission of the offence was due to the act or default of another person or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless, not less than 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.

(3) In any proceedings for an offence under section 2 (2) of the Principal Act in relation to goods to which a false trade description is applied it shall be a defence for the person charged to prove that he did not know, and could not with reasonable diligence have ascertained, that the goods did not conform to the description or that the description had been applied to the goods.

(4) In proceedings for an offence under section 2 of the Principal Act involving a false trade description or an offence under this Act committed by the publication of an advertisement it shall be a defence for the person charged to prove that he is a person whose business it is to publish or arrange for the publication of advertisements and that he received the advertisement for publication in the ordinary course of business and did not know and had no reason to suspect that its publication would amount to an offence under the Principal Act or this Act.

(5) Where a person is charged with an offence under section 2 (2) of the Principal Act in relation to any goods, proof□

(a) that he published a notice indicating□

(i) that he did not apply the trade description to which the offence relates to the goods,

(ii) that he did not know whether the description was true or false, and

(iii) that purchasers should disregard it, or

(b) that he disclaimed by other means responsibility for the description,

shall not be a compliance with subsection (1) (b) of this section where there is not proof that the person had reasonable grounds for believing that the trade description might be false and that it was not reasonably possible for him having regard to the circumstances to determine whether the trade description was true or false, but where proof to the satisfaction of the court concerned is given of all the matters referred to in this subsection, it shall be for the court to determine whether, in all the circumstances, such proof is a compliance with the said subsection (1) (b).

Exclusion of banks licensed under Central Bank Act, 1971.

23. □ The Acts and this Act shall not apply to any act or omission for the purposes of the business authorised by a licence for the time being in force under section 9 of the Central Bank Act, 1971 , by the holder of the licence or his servants or agents.

Trade marks containing trade descriptions.

24. □ The fact that a trade description is a trade mark, or part of a trade mark, or part of a trade mark, within the meaning of the Trade Marks Act, 1963 , 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,
- (b) that on the passing of this Act the trade mark either is registered under the Trade Marks Act, 1963 , or is in use to indicate a connection in the course of trade between such goods and the proprietor of the trade mark,
- (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 a person registered under section 36 of the Trade Marks Act, 1963 as a registered user of the trade mark, 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 passing of this Act.

Saving for certain contracts.

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

Provisions in relation to orders under this Act.

26. (1) An order under this Act may provide that, in specified circumstances or subject to specified conditions the order shall not apply, or shall not apply to a specified class or specified classes of persons, goods, services, accommodation or facilities, and different circumstances or conditions may be specified in the order in relation to different classes of persons, goods, services, accommodation or facilities.

(2) At least two months before the date of the making of an order under this Act there shall be published in *Iris Oifigiúil* and in at least one daily morning newspaper printed in the State notice of the Minister's intention to make the order and a brief statement of the effect of the order.

(3) An order shall not be made under this Act without prior consultation by the Minister with such persons as appear to him to be substantially interested in the subject-matter of the order.

(4) (a) Whenever an order is proposed to be made under section 9, 10, 11 or 12 of this Act, or under paragraph (b) of this subsection, a draft of the order shall be laid before each House of the Oireachtas and the order shall not be made until a resolution approving of the draft has been passed by each such House.

(b) The Minister may by order amend or revoke an order to which paragraph (a) of this subsection applies.

(5) Subsections (2) and (3) of this section shall not apply to an order under section 11 or subsection (4) (b) of this section in a case where, in the opinion of the Minister, it is necessary to make the order without complying with the said subsections (2) and (3).

Expenses of Minister.

27. The expenses incurred by the Minister or the Director in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

Short title, construction and collective citation.

28. (1) This Act may be cited as the Consumer Information Act, 1978.

(2) The Acts and this Act, insofar as it amends the Acts, shall be construed together and may be cited together as the Merchandise Marks Acts, 1887 to 1978.

Acts Referred to

Petty Sessions (Ireland) Act, 1851	1851, c. 93.
Merchandise Marks Act, 1887	1887, c. 28.
Merchandise Marks Act, 1931	1931, No. 48.
Civil Service Commissioners Act, 1956	1956, No. 45.
Trade Marks Act, 1963	1963, No. 9.
Performers' Protection Act, 1968	1968, No. 19.
Central Bank Act, 1971	1971, No. 24.