GENERAL AGREEMENT ON TARIFFS AND TRADE

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MARKS OF ORIGIN

Submission of Laws and Regulations

FEDERATION OF RHODESIA AND NYASALAND

The Government of the Federation of Rhodesia transmitted the Merchandise Marks Act 1957 which was published in the Federal Government Gazette on 6 September 1957. It is the Government's intention to bring this legislation into force during March 1958. The main provisions of this Act are:

PRELIMINARY

1. Short title and date of commencement

This Act may be cited as the Merchandise Marks Act, 1957, and shall come into operation on a date to be fixed by the Governor-General by notice in the Federal Gazette, which date shall not be earlier than six months after the date on which this Act is first published in or with the Federal Gazette.

2. Interpretation of terms

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PART I

APPLICATION OF TRADE MARKS AND TRADE DESCRIPTIONS

3. Application of trade marks and trade descriptions

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PART II

MARKING OF GOODS AND PROHIBITIONS IN RELATION TO TRADE MARKS AND TRADE DESCRIPTIONS

4. Certain acts deemed to be a forgery of a trade mark

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5. Forgery of trade marks and other acts prohibited

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6. Prohibition of sale of goods bearing forged trade mark or false trade description

. . .

7. Prohibition of sale of imported goods unless accompanied by indications of origin.

(1) Subject to the provisions of subsection (2), no person shall sell or, for the purpose of advertising goods, distribute any goods of external manufacture or samples of such goods to which there is applied any name being or purporting to be the name of any manufacturer, producer or trader in the Federation or the name of any town, place or district in the Federation, unless there is added to that name in a conspicuous manner the name of the country in which such goods were made or produced so as to indicate that they were made or produced in that country.

(2) This section shall not have effect in respect of the application of a name or trade mark to articles to be used as coverings, labels or reels or to articles in or with which goods manufactured or produced in the Federation are to be sold, if the name or trade mark so applied is the name or trade mark of a manufacturer, producer of or trader in those goods in the Federation and the name or trade mark is applied with his consent.

(3) The Minister may, by notice in the Federal Gazette, suspend, in relation to any goods or class of goods, the operation of sub-section (1).

8. Prohibition of sale of goods, whether made in the Federation or elsewhere, unless accompanied by indication of origin.

(1) No person shall sell or, for the purpose of advertising goods, distribute in the Federation -

(a) any goods of external manufacture or samples of such goods to which there is applied any trade mark or trade description which contains a direct or indirect reference to any town, place, district or country; or

(b) any goods manufactured in the Federation or samples of such goods to which there is applied any trade mark or trade description which contains a direct or indirect reference to any town, place, district or country outside the Federation;

unless there is added to that trade mark or trade description in a conspicuous manner the name of the country in which such goods were made or produced so as to indicate that they were made or produced in that country.

(2) The Minister may, by notice in the Federal Gazette, suspend, in relation to any goods or class of goods, the operation of sub-section (1).

9. Importation of certain goods prohibited.

No person shall import into the Federation any goods -

(a) to which any forged trade mark or false trade description is applied or to which any trade mark or a mark so nearly resembling a trade mark as to be likely to deceive is falsely applied; or

(b) which it would be an offence to sell or distribute in terms of section seven or eight.

10. Marking of goods on importation

(1) If the import of any goods into the Federation is prohibited in terms of paragraph (b) of section nine, the Controller of Customs and Excise, after -

(a) being furnished by the importer thereof with proof of the country in which the goods were made or produced; and

(b) being satisfied that the goods are capable of being marked so as to comply with the requirements of section seven or eight as the case may be;

may, within such time as he may specify, permit the importer of the goods to mark them so as to comply with such requirements.

(2) If the goods are marked within the time specified in terms of subsection (1) to the satisfaction of the Controller of Customs and Excise, such goods may, notwithstanding the provisions of section 40 of the Customs and Excise Act, 1955, be imported into the Federation.

11. Removal of indication of origin from imported goods prohibited.

(1) No person shall remove, alter or obliterate an indication of origin applied to goods in accordance with the provisions of section seven, eight or ten.

(2) It shall be a sufficient defence to any charge under subsection (1) if the accused satisfies the court that the removal, alteration or obliteration was not made for the purpose of concealing the origin of the goods at the time of sale.

12. Indication of origin and compliance with specified standards in the case of certain classes of goods

The Minister may, after such investigation as he thinks fit, by notice in the Federal Gazette prohibit the importation for sale or the sale of goods of any class or description, unless all or any of the following requirements, as specified in such notice, have been complied with -

(a) there are applied to the goods words stating clearly the country in which they were made or produced and such words are applied in such manner as may be specified in the notice or, if no manner is specified, in a conspicuous manner;

(b) the goods bear such mark as may be specified in the notice and conform to such standard as may be prescribed in the notice;

(c) there are applied to the goods in a conspicuous manner and as specified in the notice words or letter stating clearly the materials of which they are composed and, if so specified in the notice, the percentages of such materials calculated either by weight or by volume;

(d) there are applied to second-hand goods which have been reconditioned, rebuilt or remade, whether in the Federation or elsewhere, in the manner specified in the notice, words stating clearly that they have been reconditioned, rebuilt or remade, as the case may be.

13. Indication of origin of certain goods may be precribed.

If the Minister, after such investigation as he thinks fit, is satisfied, in the case of goods of any class or description which are made or produced in one country, that -

(a) such goods -

(i) have undergone in another country any treatment or process resulting in a substantial change in the goods; or

(ii) have had a considerable part of the labour expended in the manufacture or production of such goods expended in another country; or

(iii) are largely composed of materials made or produced in another country;

and

(b) it is desirable that disclosure be made with respect to such goods of the facts referred to in subparagraph (i), (ii) or (iii) of paragraph (a);

he may by notice in the Federal Gazette prohibit the importation for sale or the sale of such goods, unless there are applied to them in a conspicuous manner words specified in the notice making disclosure of the facts referred to concerning such goods.

14. Use of certain marks may be prohibited.

The Minister may, after such investigation as he thinks fit, by notice in the Federal Gazette prohibit, either absolutely or conditionally, the application to goods of any mark, word, letter or figure or of any arrangement or combination thereof.

15. Submission of representations by interested persons.

Before the Minister issues any notice under section twelve, thirteen or fourteen, he shall, by notice in the Federal Gazette, invite representations on the matter within a period stated and take into consideration all representations so submitted.

PART III.

16. Unauthorized use of emblems.

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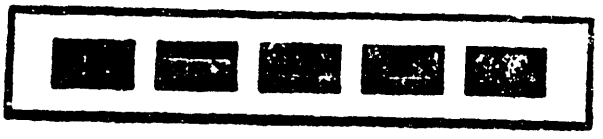
PART IV.

17 to 25 Miscellaneous

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