

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1195.

9 June 1978.

No. 1195.

9 Junie 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.

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.

## TRADE PRACTICES AMENDMENT ACT, 1978.

Act No. 78, 1978

**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;

- 10 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.

15 **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 Act, except the power to make any recommendation in terms of section 16 or 17, to a subcommittee but shall not be divested of any power so delegated.

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

(2) Any person appointed in terms of subsection

(1)—

(a) shall hold office—

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

(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:

(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;

(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)."

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:

"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):

"(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."

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—";

(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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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

20 (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—

30 [(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

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

40 (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,

45 shall form part or shall not form part of any advertisement in which such goods or service are advertised,

50 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.

55 (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.

60 (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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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."

7. The following section is hereby inserted in the principal Act  
10 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.