

TRADING STAMPS ACT.

New South Wales



ANNO VICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 44, 1972.

An Act to prohibit the issue of certain trading stamps; and for purposes connected therewith. [Assented to, 11th April, 1972.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title
and com-
mencement.

1. (1) This Act may be cited as the "Trading Stamps Act, 1972".

(2)

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(2) This Act shall commence upon a day to be No. 44, 1972 appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) In this Act, except to the extent that the context Definitions or subject-matter otherwise indicates or requires—

“goods” includes anything that is the subject of trade, manufacture or merchandise;

“inspector” means inspector appointed under the Factories, Shops and Industries Act, 1962;

“purchase” includes acquisition under a hire-purchase agreement;

“stamp” means any stamp, coupon, voucher, token or similar device, whether adhesive or not, other than money;

“to redeem” means, in relation to trading stamps, to give or deliver, or to obtain, money or goods or to grant or confer, or to obtain, a benefit, allowance, concession or advantage—

(a) wholly or partly in consideration of the surrender or cancellation of the trading stamps; or

(b) otherwise in respect of, or by means of, the trading stamps;

“trading stamp” means, subject to this section, a stamp which is, or is intended to be, delivered to any person upon or in connection with the purchase by that person of any goods (other than a newspaper or other periodical of which the stamp forms part or in which it is contained) and is, or is intended to be, redeemable (whether singly or together with other such stamps) by that or some other person;

“trading

No. 44, 1972 “trading stamp scheme” means any arrangements for making trading stamps available for use in shops or elsewhere, together with arrangements for their redemption.

(2) For the purposes of this Act, a stamp is not a trading stamp if it—

- (a) is delivered or is intended to be delivered to a person (in this subsection called “the purchaser”) upon or in connection with the purchase of any goods by the purchaser; and
- (b) is redeemable from—
 - (i) the person (in this subsection called “the seller”) from whom the purchaser purchased those goods;
 - (ii) any person from whom the seller (whether directly or indirectly) acquired those goods; or
 - (iii) an employee of a person referred to in subparagraph (i) or (ii) of this paragraph, and is not, and is not intended to be, redeemable from any other person, whether or not that other person is the agent of a person so referred to.

(3) A reference in this Act—

- (a) to the purchase of goods includes a reference to the obtaining of services; and
- (b) to a stamp includes a reference to a part of a stamp.

Offences.

3. (1) In this section “the appointed day” means a day appointed by the Governor for the purposes of this section and notified by publication in the Gazette.

(2) Subject to this section, a person shall not—

- (a) carry on business as a promoter of a trading stamp scheme operating within, or both within and outside, New South Wales;
- (b)

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- (b) in New South Wales or elsewhere, deliver or offer No. 44, 1972 to deliver any trading stamps to another person for the purpose of or with a view to the delivery of those stamps or any of them in New South Wales to persons who purchase goods from that other person;
- (c) in New South Wales give or deliver any money or goods, or grant or confer any benefit, allowance, concession or advantage, in redemption of any trading stamps; or
- (d) publish or cause to be published any advertisement intended or apparently intended—
 - (i) to induce persons to obtain, deliver or redeem trading stamps pursuant to a trading stamp scheme that operates, or is expressly or impliedly stated by the advertisement to be operating or to be about to operate, within, or both within and outside, New South Wales; or
 - (ii) otherwise to further the promotion or operation of such a scheme.

Penalty : One thousand dollars.

(3) Subject to this section, a person shall not, upon or in connection with any purchase of goods from him, deliver any trading stamps to another person.

Penalty : Four hundred dollars.

(4) A person does not, by virtue of this section, commit an offence against this Act by reason only that—

- (a) before the appointed day he gives or delivers any money or goods, or grants or confers any benefit, allowance, concession or advantage, in redemption of any trading stamps issued before the commencement of this Act, or publishes a statement to the effect that he will do so, or carries on a business for the purpose of so doing; or

(b)

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(b) he buys from a person who has carried on business as a promoter of a trading stamp scheme any trading stamps for the purpose of their being used as, or converted into, waste or scrap material.

(5) For the purposes of this section, an advertisement is published if it is—

(a) inserted in a newspaper or other periodical publication printed or published in, or that ordinarily circulates or is ordinarily distributed in New South Wales, whether such insertion takes place in or outside New South Wales;

(b) publicly exhibited in New South Wales—

- (i) in, on, over or under any building, vehicle or place (whether or not a public place and whether on land or water); or
- (ii) in the air in the view of persons being or passing in or on any street or public place;

(c) contained in any document gratuitously sent or delivered to any person in New South Wales or thrown or left upon premises in New South Wales in the occupation of any person; or

(d) broadcast by wireless transmission or by television.

(6) For the purposes of this section an advertisement exhibited as described in paragraph (b) of subsection five of this section shall be regarded as published on every day on which it is so exhibited, but in any proceedings for an offence against this Act arising from such exhibition in a case where the exhibition commenced before the commencement of this Act, it shall be a defence to show that the defendant had before or immediately upon that commencement taken, and had thereafter continued to take, all reasonable steps to secure that the exhibition terminated on, or as soon as practicable after, that commencement.

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4. Where any offence against this Act committed by a corporation is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the corporation, he, as well as the corporation, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Offences
by corpor-
ations.

5. (1) Subject to this section, an inspector may exercise all or any one or more of the following powers :—

- (a) he may, on producing (if required) the certificate of his appointment referred to in subsection three of section seven of the Factories, Shops and Industries Act, 1962, enter, inspect and examine at any reasonable hour any shop or other premises or place if he has reasonable cause to believe that a trading stamp scheme is controlled, or managed, or carried on, or that any trading stamps, catalogues, stamp books or other documents used or intended for use in the operation of such a scheme are printed, kept, published or issued in, on or from those premises or that place;
- (b) after entering a shop, premises or place pursuant to paragraph (a) of this subsection he may require the production of, and may inspect and examine and may copy wholly or in part, any trading stamps, catalogues, stamp books and other documents that are kept on or in the shop, premises or place, and that he reasonably believes to be used or intended for use in the operation of a trading stamp scheme;
- (c) he may make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act are being and have been complied with.

(2) No person shall—

- (a) wilfully delay or obstruct an inspector in the exercise of any power conferred on the inspector by this section; or

(b)

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(b) fail without reasonable excuse to comply with any requisition of an inspector made in the exercise of any such power.

Penalty: Two hundred dollars.

(3) This section does not authorise an inspector to enter a private dwelling-house, or the land used in connection therewith, unless some manufacture, trade or business is carried on therein or require any person to answer any question if the answer to such question might incriminate him.

Proceedings.

6. (1) Proceedings for an offence against this Act may—
(a) be taken and prosecuted by an inspector; and
(b) be disposed of summarily before an industrial magistrate appointed under the Industrial Arbitration Act, 1940, or a stipendiary magistrate.

(2) The provisions of the Industrial Arbitration Act, 1940, and the regulations made thereunder, relating to proceedings before an industrial magistrate and to appeals from an industrial magistrate to the Industrial Commission of New South Wales shall apply to proceedings before an industrial magistrate or a stipendiary magistrate for offences against this Act as if the proceedings under this Act were proceedings under that Act.

(3) In proceedings for an offence against this Act the informant may conduct his case himself, or by his counsel or attorney, or by an agent duly authorised by him in writing, or by an officer of the Department of Labour and Industry.

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