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GOVERNMENT GAZETTE

STAATSKOERANT

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KAAPSTAD, 23 MEI 1980

[No. 7009

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 987. 23 May 1980.

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

No. 55 of 1980: Trade Practices Amendment Act, 1980.

No. 987. 23 Mei 1980.

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

No. 55 van 1980: Wysigingswet op Handelspraktyke, 1980.

Wet No. 55, 1980

WYSIGINGSWET OP HANDELSPRAKTYKE, 1980

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Handelspraktike, 1976, ten einde die uitdrukking „handelspraktik” nader te omskryf; die bevoegdhede van die Handelspraktike-advieskomitee uit te brei en nader te omskryf; die bevoegdhede van die Minister met betrekking tot die verbod van reëling van sekere handelspraktike en advertensies uit te brei; die publikasie van sekere kennisgewings verder te reël; sekere verwer by verhoor kragtens genoemde Wet te reël; en voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 5 Mei 1980.)

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, soos gewysig deur artikel 1 van Wet 78 van 1978.

1. Artikel 1 van die Wet op Handelspraktike, 1976 (hieronder die Hoofwet genoem), word hierby gewysig deur die omskrywing 5 van „handelspraktik” deur die volgende omskrywing te vervang: „handelspraktik” nie ook 'n handelspraktik nie wat na die oordeel van die Minister 'n **[monopolistiese toestand is soos bedoel in artikel 2 (1) van die Wet op Reëling van Monopolistiese Toestande, 1955 (Wet No. 24 van 10 1955)]** beperkende praktik is soos omskryf in artikel 1 van die Wet op Handhawing en Bevordering van Mededinging, 1979 (Wet No. 96 van 1979);”.

Invoeging van artikels 4C en 4D in Wet 76 van 1976.

2. Die volgende artikels word hierby in die Hoofwet na artikel 4B ingevoeg: 15

„Bykomende bevoegdhede van komitee.

4C. Die komitee kan ook—

- (a) op versoek van die Minister of uit eie beweging enige aangeleentheid wat aan beheer, beperking of verbod kragtens hierdie Wet onderworpe is, 20
ondersoek en oorweeg en 'n skriftelike aanbeveling ten opsigte daarvan aan die Minister doen;
- (b) vir die doeleindes van so 'n ondersoek die getuienis aanhoor van iemand wat verlang om getuienis voor die komitee af te lê;
- (c) vir die doeleindes van so 'n ondersoek— 25
 - (i) uit eie beweging of op versoek van die Minister iemand wat, na vermoed word, in staat is om inligting aangaande die onderwerp van die ondersoek te verstrek of 'n 30
boek, stuk of ander voorwerp wat op daardie onderwerp betrekking het, in sy besit of onder sy beheer het, dagvaar om op 'n tyd en plek in die dagvaarding aangegee, voor die komitee te verskyn om ondervra te

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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 Trade Practices Act, 1976, so as to further define the expression "trade practice"; to extend and further define the powers of the Trade Practices Advisory Committee; to extend the powers of the Minister in relation to the prohibition or regulation of certain trade practices and advertisements; to further regulate the publication of certain notices; to regulate certain defences in trials under the said Act; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 5 May 1980.)

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 substitution for the definition of "trade practice" of the following definition:

“‘trade practice’ does not include any trade practice which in the opinion of the Minister is a **[monopolistic condition referred to in section 2 (1) of the Regulation of Monopolistic Conditions Act, 1955 (Act No. 24 of 1955)]** restrictive practice as defined in section 1 of the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979).”.

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

Insertion of sections 4C and 4D in Act 76 of 1976.

“Additional powers of committee. **4C.** The committee may also—

- (a) at the request of the Minister or of its own accord, investigate and consider any matter subject to control, restriction or prohibition under this Act and make a written recommendation in respect thereof to the Minister;
- (b) for the purposes of any such investigation, hear evidence from any person desiring to give evidence before it;
- (c) for the purposes of any such investigation—
- (i) of its own accord or at the request of the Minister subpoena any person who is believed to be able to furnish any information on the subject of the investigation or to have in his possession or under his control any book, document or other object which has any bearing upon that subject, to appear before the committee at a time and place specified in the subpoena, to be interrogated

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Dagvaar-
dingsprose-
dure.

word of om daardie boek, stuk of ander voorwerp oor te lê; en

- (ii) so iemand onder eed of bevestiging opgelê deur die voorsitter, ondervra en so 'n boek, stuk of ander voorwerp ondersoek of vir insae hou: Met dien verstande dat iemand van wie 'n boek, stuk of ander voorwerp ingevolge hierdie subparagraaf weggeneem is wat aldus gehou word, solank as dié boek, stuk of voorwerp in besit van die komitee is, op sy versoek toegelaat word om op sy eie koste en onder behoorlike toesig op enige redelike tydstip afskrifte daarvan of uittreksels daaruit te maak.

4D. (1) 'n Dagvaarding om voor die komitee te verskyn, moet deur die voorsitter van die komitee onderteken wees en moet in die vorm wees wat hy bepaal en beteken word op die wyse wat die Minister by kennisgewing in die *Staatskoerant* voorskryf.

(2) Iemand wat gedagvaar is om voor die komitee te verskyn en wat sonder voldoende rede versuim om op die tyd en plek in die dagvaarding aangegee, te verskyn, of om aanwesig te bly totdat die voorsitter hom verlof gegee het om weg te bly of wat na verskyning weier om die eed af te lê of 'n bevestiging te doen nadat die voorsitter hom gevra het om dit te doen of wat, na eedaflegging of bevestiging, versuim om 'n wettig aan hom gestelde vraag ten volle en op bevredigende wyse te beantwoord, of wat versuim om 'n boek, stuk of ander voorwerp oor te lê wat in sy besit of onder sy beheer is en wat hy volgens voorskrif van sy dagvaarding moet oorlê, is aan 'n misdryf skuldig.

(3) Iemand wat, nadat hy die eed afgelê of 'n bevestiging gedoen het, omtrent enige aangeleentheid valse getuienis voor die komitee aflê in die wete dat daardie getuienis vals is, of terwyl hy nie weet of nie dink dat dit juis is nie, is aan 'n misdryf skuldig.

(4) Die reg aangaande privilegie, soos toepaslik op 'n getuie wat voor 'n provinsiale afdeling van die Hooggeregshof van Suid-Afrika getuienis aflê of gedagvaar is om 'n boek, stuk of ander voorwerp daaraan oor te lê, is van toepassing met betrekking tot iemand wat kragtens hierdie artikel gedagvaar word.

(5) By 'n vervolging kragtens subartikel (2) is daar nie 'n las op die Staat om die afwesigheid van voldoende rede vir die een of ander in die aanklag beweerde handeling of versuim te bewys nie."

Wysiging van
artikel 6 van
Wet 76 van 1976,
soos gewysig deur
artikel 3 van
Wet 78 van 1978.

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 op versoek van en namens die komitee, na gelang van die geval, aangevra kan word."

Wysiging van
artikel 11 van
Wet 76 van 1976,
soos gewysig deur
artikel 4 van
Wet 78 van 1978.

4. Artikel 11 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

„(2) Indien die Minister van oordeel is dat **[die verkoop, lewering of gee soos beoog in]** enige handeling, optrede of praktijk wat deur subartikel (1) **[(c), (e) of (f)]** van 'n

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or to produce such book, document or other object; and

- (ii) interrogate any such person under oath or affirmation administered by the chairman, and examine or retain for examination any such book, document or other object: Provided that any person from whom any book, document or other object has been taken in terms of this subparagraph which is so retained, shall, so long as such book, document or object is in the possession of the committee, at his request be allowed, at his own expense and under proper supervision, to make copies thereof or to take extracts therefrom at any reasonable time.

Subpoena
procedure.

4D. (1) A subpoena to appear before the committee shall be signed by the chairman of the committee and shall be in the form determined by him and shall be served in the manner prescribed by the Minister by notice in the *Gazette*.

(2) Any person who has been subpoenaed to appear before the committee and who, without sufficient cause, fails to attend at the time and place specified in the subpoena or to remain in attendance until he is excused by the chairman from further attendance, or, having attended, refuses to be sworn or to make an affirmation after he has been asked by the chairman to do so, or, having been sworn or having made affirmation, fails to answer fully and satisfactorily any question lawfully put to him, or fails to produce any book, document or other object in his possession or under his control which he has been subpoenaed to produce, shall be guilty of an offence.

(3) Any person who, after having been sworn or having made affirmation, gives false evidence before the committee on any matter, knowing such evidence to be false or not knowing or not believing it to be true, shall be guilty of an offence.

(4) The law relating to privilege as applicable to a witness giving evidence before, or subpoenaed to produce a book, document or other object to, a provincial division of the Supreme Court of South Africa shall apply in relation to any person subpoenaed under this section.

(5) In a prosecution under subsection (2) there shall not be an onus on the State to prove the absence of sufficient cause for any act or omission alleged in the charge."

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

"(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, the secretary with any information requested in such notice and relating to the business of such person or to a **business** trade 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 at the request of and on behalf of the committee, as the case may be."

Amendment of
section 6 of
Act 76 of 1976,
as amended by
section 3 of
Act 78 of 1978.

4. Section 11 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) If the Minister is of the opinion that **the sale, delivery or giving as contemplated in** any act, conduct or practice permitted by subsection (1) **[(c), (e) or (f), of any**

Amendment of
section 11 of
Act 76 of 1976,
as amended by
section 4 of
Act 78 of 1978.

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dokument of teken of enige kategorie dokumente of tekens] veroorloof word, nie in die 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] handeling, optrede of praktyk verbied of ten opsigte [van sodanige verkoop, lewering of gee] daarvan die voorwaardes oplê wat hy goedvind."**

Wysiging van
artikel 14 van
Wet 76 van 1976.

5. Artikel 14 van die Hoofwet word hierby gewysig deur in 10 subartikel (1) die woorde wat paragraaf (a) voorafgaan, deur die volgende woorde te vervang:

„Die Minister kan, behoudens die bepalings van artikel 16, by kennisgewing in die *Staatskoerant* enige advertensie of 15 soort advertensie verbied of die besonderhede (met inbegrip van aanduidings, beskrywings of afbeeldings) voorskryf wat ten opsigte van die—”.

Vervanging van
artikel 16 van
Wet 76 van 1976,
soos gewysig deur
artikel 5 van
Wet 78 van 1978.

6. Artikel 16 van die Hoofwet word hierby deur die volgende artikel vervang:

„Voorvereistes vir die publikasie van sekere kennisgewings.

16. (1) Voor die publikasie van 'n kennisgewing 20

kragtens artikel 11 (2), 12, 14 of 15, moet die Minister, tensy die komitee alreeds 'n relevante aanbeveling kragtens artikel 4C (a) aan hom gedoen het, die komitee versoek om op die wyse in artikel 4C beoog die aangeleentheid ten opsigte waarvan dit die 25 voorneme is om die kennisgewing uit te reik, te ondersoek en te oorweeg en 'n aanbeveling ten opsigte daarvan aan hom te doen.

(2) Indien die Minister na ontvangs van 'n aanbeveling ingevolge subartikel (1) van hierdie artikel of artikel 4C (a), voornemens is of nog voornemens is om 'n kennisgewing kragtens artikel 11 (2), 12, 14 of 15, na gelang van die geval, te publiseer, moet die Minister, sonder om in enige 30 wesentlike opsig van daardie aanbeveling af te wyk, 'n voorlopige kennisgewing in die *Staatskoerant* laat publiseer— 35

(a) wat die strekking van die kennisgewing wat hy voornemens is om kragtens die betrokke artikel te publiseer, uiteensit; en 40

(b) waarin alle belanghebbendes versoek word om besware of vertoë in verband met die voorgestelde kennisgewing skriftelik by die komitee in te dien voor 'n datum in die voorlopige kennisgewing vermeld, wat 'n datum moet wees nie 45 vroeër nie as dertig dae na die datum van publikasie van genoemde voorlopige kennisgewing.

(3) Indien besware of vertoë ingevolge subartikel (2) by die komitee ingedien is, moet hy ten opsigte 50 daarvan skriftelik 'n verdere aanbeveling aan die Minister doen.

(4) Na oorweging van 'n aanbeveling ingevolge subartikel (3) gedoen, maar nie later nie as ses maande na die datum waarop genoemde aanbeveling 55 deur die komitee gedoen is, of, indien geen besware of vertoë by die komitee ingevolge subartikel (2) ingedien is nie, nie later nie as ses maande na die publikasie van die voorlopige kennisgewing ingevolge genoemde subartikel, kan die Minister die betrokke 60 kennisgewing kragtens artikel 11 (2), 12, 14 of 15, na gelang van die geval, in die *Staatskoerant* publiseer. Met dien verstande dat, indien die Minister so 'n kennisgewing publiseer, die strekking van daardie 65 kennisgewing nie in 'n wesentlike opsig mag verskil nie van die strekking van enige aanbevelings wat die

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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]** act, conduct or practice or impose in respect **[of such sale, delivery or giving]** thereof such conditions as he may deem fit.”.

5. Section 14 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words: Amendment of section 14 of Act 76 of 1976.

“Subject to the provisions of section 16, the Minister may by notice in the *Gazette* prohibit any advertisement or kind of advertisement or prescribe the particulars (including indications, descriptions or depictions) which in respect of—”.

6. The following section is hereby substituted for section 16 of the principal Act: Substitution of section 16 of Act 76 of 1976, as amended by section 5 of Act 78 of 1978.

“Prerequisites for the publication of certain notices.

16. (1) Before the publication of any notice under section 11 (2), 12, 14 or 15 the Minister shall, unless the committee has already made a relevant recommendation to him under section 4C (a), request the committee to investigate and consider, in the manner contemplated in section 4C, the matter in regard to which the notice is proposed to be issued, and to make a recommendation in respect thereof to him.

(2) If the Minister, after receipt of a recommendation in terms of subsection (1) of this section or section 4C (a), intends or still intends to publish a notice under section 11 (2), 12, 14 or 15, as the case may be, the Minister shall, without deviating in any material respect from such recommendation, cause to be published in the *Gazette* a provisional notice—

(a) stating the purport of the notice which he intends to publish under the section in question; and

(b) in which all interested persons are requested to lodge objections or representations regarding the proposed notice in writing with the committee before a date specified in the provisional notice, which shall be a date not earlier than thirty days after the date of publication of the said provisional notice.

(3) If any objections or representations are lodged with the committee in terms of subsection (2), it shall make in respect thereof a further written recommendation to the Minister.

(4) After consideration of any recommendation made in terms of subsection (3), but not later than six months after the date upon which the said recommendation was made by the committee, or, if no objections or representations were lodged with the committee in terms of subsection (2), not later than six months after the publication of the provisional notice in terms of the said subsection, the Minister may publish the notice in question in the *Gazette* under section 11 (2), 12, 14 or 15, as the case may be: Provided that, if the Minister publishes any such notice, the purport of such notice shall not in any material respect differ from the purport of any recommendations that may have been made by the

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komitee kragtens artikel 4C (a) of subartikel (1) van hierdie artikel en subartikel (3) van hierdie artikel ten opsigte daarvan mag gedoen het."

Wysiging van artikel 17 van Wet 76 van 1976, soos vervang deur artikel 6 van Wet 78 van 1978.

7. Artikel 17 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 5

„(1) Die Minister of die Sekretaris kan, op aanbeveling van die komitee en in ooreenstemming met sodanige aanbeveling en vir 'n tydperk van hoogstens [ses] nege maande, by kennisgewing in die *Staatskoerant*—

(a) **[die verkoop, lewering of gee soos beoog in artikel 11** 10

(1) (c), (e) of (f), van 'n dokument of teken of enige kategorie dokumente of tekens] enige handeling,

optrede of praktyk wat deur artikel 11 (1) veroorloof word, verbied of ten opsigte **[van sodanige verkoop,**

lewering of gee] daarvan voorwaardes op lê indien die 15

komitee oortuig is dat sodanige **[verkoop, lewering of gee]** handeling, optrede of praktyk 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 20

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

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

(aa) verhoudinge tussen besighede en persone wat by die verkoop of verhuring van goedere of by die lewering of verskaffing van 'n diens betrokke is; of

(bb) verhoudinge tussen besighede en verbruikers, 30 regstreeks of onregstreeks kan skaad, indien die komitee oortuig is dat dit in die belang van daardie persone of verbruikers of besighede nodig of dienstig is om daardie handelspraktyk te verbied of te beheer, 35

verbied of voorwaardes ten opsigte daarvan op lê; of

(c) (i) **enige advertensie of soort advertensie verbied;** of

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

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

[(ii)] (bb) wyse of voorwaardes waarop of die pryse waarteen goedere gekoop, gehuur of andersins verkry kan word of 'n diens gelever of 45

verskaf word, deel moet uitmaak of nie deel mag uitmaak nie van 'n advertensie waarin daardie goedere of diens geadverteer word,

indien 'n kennisgewing kragtens artikel 11 (2), 12, 14 of 50 15, na gelang van die geval, nog nie ten opsigte van daardie handeling, optrede, praktyk, verkoop, lewering of gee, bate, besonderhede of handelspraktyk gepubliseer is nie."

Vervanging van artikel 18 van Wet 76 van 1976.

8. Artikel 18 van die Hoofwet word hierby deur die volgende 55 artikel vervang:

„Spesiale verwee.

18. (1) Behoudens die bepalinge van subartikel (2)

word niemand weens 'n misdryf kragtens hierdie Wet skuldig bevind nie indien hy bewys dat die handeling

of versuim wat hom ten laste gelê word en wat 60 daardie misdryf uitmaak, te wyte is aan **[(a)] 'n redelike dwaling deur hom ten opsigte van die**

relevante feite; of (b)] die feit dat hy redelikerwys staatgemaak het op inligting wat deur 'n **[ander]**

persoon deur hom vermeld, aan hom verstrekk is. 65

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committee under section 4C (a) or subsection (1) of this section and subsection (3) of this section in respect thereof.”.

7. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of section 17 of Act 76 of 1976, as substituted by section 6 of Act 78 of 1978.

“(1) The Minister or the secretary may, on the recommendation of the committee and in accordance with such recommendation and for a period not exceeding **[six]** nine months, by notice in the *Gazette*—

- 10 (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,]** any act, conduct or practice permitted by section 11 (1), if the committee is
- 15 satisfied that such **[sale, delivery or giving]** act, conduct or practice 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
 - (ii) any trade practice which, in the opinion of the committee, may directly or indirectly injure—
- 25 (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
- (bb) the relations between businesses and consumers,
- 30 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) (i) prohibit any advertisement or kind of advertisement; or
- 35 (ii) prescribe the particulars (including indications, descriptions or depictions) which in respect of—
- [(i)]** (aa) the nature, properties, advantages or uses of any goods or service; or
- 40 **[(ii)]** (bb) 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 services 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 act, conduct, practice, sale, delivery, giving, benefit,
- 50 particulars or trade practice.”.

8. The following section is hereby substituted for section 18 of the principal Act:

Substitution of section 18 of Act 76 of 1976.

“Special defences.

- 55 18. (1) Subject to the provisions of subsection (2), no person shall be convicted of any offence under this Act if he proves that the act or omission with which he is charged and which constitutes such offence is due to **[(a) a reasonable mistake by him in respect of the relevant facts; or (b)]** the fact that he relied reasonably upon any information given to him by
- 60 **[any other]** a person named by him.

Wet No. 55, 1980

WYSIGINGSWET OP HANDELSPRAKTYKE, 1980

(2) Iemand wat weens 'n misdryf ingevolge hierdie Wet aangekla word en wat voornemens is om by sy verhoor aan te voer dat **[(a)]** die handeling of versuim wat hom ten laste gelê word en wat daardie misdryf uitmaak, te wyte is aan die feit dat hy 5 redelikerwys staatgemaak het op inligting wat deur 'n **[ander]** persoon deur hom vermeld, aan hom verstrekk is, **[of (b) daardie misdryf deur 'n ander persoon gepleeg is]** moet minstens sewe dae voor die datum van sy verhoor die aanklaer skriftelik in kennis stel 10 van sy voorneme tesame met enige inligting tot sy beskikking wat daardie **[ander]** persoon kan identifiseer of daartoe kan bydra om hom te identifiseer. Met dien verstande dat die hof wat **[so iemand]** die beskuldigde verhoor, die versuim om die aanklaer 15 aldus in kennis te stel, kan kondoneer.

(3) Niemand word skuldig bevind weens 'n misdryf kragtens artikel 9 (a) nie indien hy bewys—

- (a) dat dit sy beroep of besigheid is om advertensies te publiseer of te vertoon **[of te laat publiseer 20 of vertoon];** en
- (b) dat hy te goeder trou en in die gewone loop van sake die betrokke advertensie gepubliseer of vertoon het **[of laat publiseer of vertoon het]** 25 en dat hy nie geweet het nie en daar nie redelikerwys van hom verwag kon word om te geweet het nie dat daardie advertensie in wesenlike opsigte vals of misleidend was.”.

Kort titel.

9. Hierdie Wet heet die Wysigingswet op Handelspraktyke, 1980.

30

TRADE PRACTICES AMENDMENT ACT, 1980

Act No. 55, 1980

5 (2) Any person charged with any offence under this Act and who intends to allege at his trial that **[(a)]** the act or omission with which he is charged and which constitutes such offence is due to the fact that he relied reasonably on information given to him by **[any other] a person named by him [or (b) such offence was committed by any other person]** shall advise the prosecutor, at least seven days before the date of his trial, in writing of his intention together with any information at his disposal which may identify, or be of aid in the identification of, such **[other] person**: Provided that the court trying **[such person] the accused** may condone the failure to advise the prosecutor in the said manner.

10 (3) No person shall be convicted of any offence under section 9 (a) if he proves—

- 15 (a) that it is his occupation or business to publish or display **[or cause to be published or displayed]** advertisements; and
- 20 (b) that he published or displayed **[or caused to be published or displayed]** the advertisement in question in good faith and in the ordinary course of business and that he did not know and could not reasonably be expected to have known that such advertisement was false or misleading in
- 25 material respects.”.

9. This Act shall be called the Trade Practices Amendment Act, Short title.
1980.

