

*THE FAIR TRADING ACT 1979*

Act No 26 of 1979

*ARRANGEMENT OF SECTIONS*

Section

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An Act

To provide for better control of consumer trade practices and related matters  
Enacted by the Parliament of Mauritius as follows: -

1. This Act may be cited as the Fair Trading Act 1979.
2. In this Act-

"codes of practice" means the rules relating to the methods to be adopted in connection with the promotion and conduct of trade or the provision of services:

"Consumer" means an individual to whom goods or services are supplied;

"consumer trade practice" means any practice carried on the connection with the production and supply of goods whether by way of sale or otherwise to consumers or in connection with the supply of services for consumers and which relates to -

- (a) the terms and conditions, whether as to price or otherwise, on or subject to which goods or services are supplied; or
- (b) the manner in which those terms and conditions are communicated to consumers; or
- (c) methods of promotion of the supply of goods and services; or
- (d) methods of salesmanship employed in dealing with consumers; or
- (e) the way in which goods are packed, bottled, canned, labelled, marked or otherwise prepared for the purpose of being supplied, or
- (f) methods of demanding or securing payment for goods or services supplied;
- (g) any matter connected thereto.

"Court" means the Profiteering Court established by the Profiteering Court Act 1974.

"Goods" means any article which is the subject of trade or business;

"Minister" means the Minister to whom responsibility for the subject of consumer Protection is assigned;

"Prize competition" has the meaning assigned to it by the Prize Competition Act 1975;

"Promotion" in relation to the supply of goods and services, means promotion whether by way of advertising, canvassing, labelling, organising of prize competition or otherwise;

"services" means services specified in the schedule

"supply" in relation to supply of goods, includes supply by way of sale, lease, or hire-purchase;

"trade" means the production, distribution, sale, transfer, import, export, use or other dealing in goods and include the provision of services;

"trader" -

- (a) means a person engaged in any trade;
- (b) includes the agent of any such person.

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3. The Minister may designate any public officer to be an authorised officer, for the purpose of ensuring, compliance with the provisions of this Act or any subsidiary enactment made under this Act.
4. No person shall for the purpose of trade or promotion carry on a consumer trade practice which has the effect or is likely to have the effect of:
  - (a) misleading consumers as to, or withholding from them adequate information as to, their rights and obligations under any consumer transaction;
  - (b) otherwise misleading or confusing consumers with respect to any matter in connection with any consumer transaction.
  - (c) Subjecting consumers to undue pressure to enter into any consumer transaction;
  - (d) Causing the terms or conditions, on which consumers enter into any consumer transaction to be so adverse to them as to be detrimental to their interest.
5. No trader shall, when supplying goods or services, impose any condition in connection with such supply except -
  - (a) the charging of cash payment at the current ruling rate or, as the case may be, at the price which is fixed by law,
  - (b) any limitation, restriction or other condition -
    - (i) provided for in any enactment
    - (ii) authorised by the Minister.
6. Except as otherwise provided by any enactment or as approved by the Minister, no trader shall enter or induce another trader to enter into any undertaking, agreement, contract or other instrument which has the effect or is likely to have the effect of preventing, restricting or distorting competition or of promoting, establishing or observing any exclusive sales agreement or monopoly in connection with the production and supply of goods, branded or otherwise, or of services in connection with the production and supply of goods or services.
7. (1) The Minister may appoint technical committees which shall -
  - (a) be responsible for preparing provisional codes of practice;

- (b) study the objections and representations lodged under section 9(2)(b); and
  - (c) make recommendations to the Minister.
- (2) Every technical committee shall be appointed by the Minister on such terms and conditions as he thinks fit and shall be composed of persons from any association and from the private or public sectors who have knowledge and experience in matters relating to standards to be laid down in codes of practice.

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8. (1) Notwithstanding any other enactment, the Minister may make such regulations as he thinks fit for the purpose of this Act and for the purpose of regulating consumer trade practices.
- (2) any regulation made under subsection (1) may provide for -
- (a) the issue of licences and permits
  - (b) the registration of traders and traders' warehouses;
  - (c) the levying of fees and charges.
- (3) The Minister may refuse to issue licence, permit or certificate of registration or suspend or cancel any licence, permit or certificate of registration, issued under this Act.
- (4) The Minister may, by Order, amend the Schedule.
9. (1) Where the Minister intend to declare a compulsory code of practice, he shall give notice of his intention and publish provisional code of practice in the Gazette.
- (2) Any interested person may -
- (a) on written application, inspect the particulars of a provisional code of practice at the Ministry for Consumer Protection;
  - (b) within three months from the publication of a notice under subsection (1), lodge with the Minister a written objection or representation concerning the provisional code of practice.
- (3) The Minister may, after six months from the publication of the notice under subsection (1) and after giving due consideration to any objection or representation, by Order published in the Gazette, declare a compulsory code of practice.

- (4) Where a compulsory code of practice has been declared under subsection (j), no person concerned at any stage of the production or supply of goods or services to which the code refers shall act in breach of the compulsory code of practice.
10. Notwithstanding any other enactment, the Minister may, for purpose of analysis and control, require an authorised officer to purchase on his behalf such goods as may be necessary for the purpose of determining whether or not the provision of this Act or any subsidiary enactment made hereunder are being complied with.
11. An authorized officer may -
- (a) inspect any premises used for the purpose of a trade -
- (i) at any time during working hours; or
- (ii) at any time when the premises are open for the purpose of such trade
- (b) (i) require any person who has in his possession or custody or under his control or that of any other person on his behalf any document to produce that document.
- (ii) examine, make copies or take extracts from any document, which relates to the trade of such person.
12. (1) An authorized officer may seize and detain any goods or document which he has reasonable cause to believe may be the subject matter of an offence under this Act or under any subsidiary enactment made under this Act.
- (2) Where any goods seized under sub-section (1) are of a perishable nature, the Minister may in such manner he thinks fit, authorize the sale of such goods and shall cause the value of the proceeds of such sale to be deposited with the Accountant General.
- (3) Where the person charged with an offence is convicted, the Court may order the forfeiture -
- (a) of any goods or document seized under subsection (1); and
- (b) any amount deposited under subsection (2).
- (4) Where a judgement is delivered in favour of the owner of goods seized and disposed of under subsection (2). The amount deposited with the

Accountant General shall be refunded to the owner together with interest thereon at the legal rate from the date of the seizure of the goods to the date the amount is refunded.

13. (1) Any person who -

(a) contravene any of the provisions of this Act or of any subsidiary enactment made under this Act;

(b) for the purpose of, or in connection with, this Act -

- (i) makes statement which he knows or ought to have known to be false or misleading in a material particular;
- (ii) obtains or retains a document to which he is not entitled;
- (iii) Personates or falsely represents himself to be a person entitled to a document;
- (iv) makes or causes to be made or without reasonable excuse has in his possession any writing which so closely resembles a document as to be likely to deceive;
- (v) fraudulently alters a document;

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- (vi) with intent to deceive, produces or makes use of a document which is false or misleading in a material particular or has been fraudulently altered
- (vii) sells or otherwise transfers or lends a document issued to him;

shall commit an offence and shall, on conviction, be liable to a fine not less than ten thousand rupees and not exceeding fifty thousand rupees and to imprisonment for a term not exceeding one year.

14. Any person convicted more than once under this Act, shall on the second and every subsequent conviction be liable to a fine not exceeding one hundred thousand rupees together with a term of imprisonment not exceeding two years.

15. Every person who, at the commencement of this Act, is an authorized officer for the purposes of the Supplies Control Act 1974 shall be deemed to be an authorized officer designated under section 3.

16. The Profiteering Court Act 1974 is amended in section 3(1) by adding after the words "a supplies law", the following words "and under the Fair Trading Act 1979".

17. This Act shall come into operation on a day to be fixed by Proclamation.

Issued in the Legislative Assembly on the eleventh day of December, one thousand nine hundred and seventy nine.

D'ESPAIGNET

Assembly

GUY

Clerk of the Legislative

**Schedule**  
(Section 2)  
Specified Services

1. Advertising
2. Building Work
3. Package Holidays
4. Dry Cleaning
5. Motor trade including repairs and servicing
6. Professional services
7. Banking
8. Insurance
9. Transport