

**ANALYSIS**

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1949, No. 41

Title.

AN ACT to Provide for the Labelling or Marking of Wool Products and to Prevent the Improper Use of the Word "Wool". [21st October, 1949]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title and commencement.

1. (1) This Act may be cited as the Wool Labelling Act, 1949.

(2) This Act shall come into force on the first day of April, nineteen hundred and fifty.

Interpretation.

2. In this Act, unless the context otherwise requires,— "Container", in relation to any wool product, means any wrapper, binder, container, or other means of packing in which the product is contained while it is being displayed, exposed, or offered for sale:

- “ Label or mark ”, in relation to any wool product or other substance, means any stamp, tag, label, band, ticket, mark (including trademark), or method of displaying information which is sewed or stapled or attached or annexed to, or woven into, or printed or stencilled or branded or marked upon, the product or substance, and which states or purports to state the trade description of the product or substance or any part thereof, or the fibre or material of which the product, substance, or part is made; and the expression “ labelled or marked ” has a corresponding meaning:
- “ Partly manufactured wool product ” means any top, slubbing, yarn, or other wool product or portion of a wool product (whether produced in New Zealand or elsewhere) which is not completely manufactured and which has to undergo further processing or manufacture before it is sold and delivered to the ultimate consumer:
- “ Pile fabric ” means any fabric in which warp or weft threads are made to project from the ground structure in such a manner as to form a pile on the surface; and includes fabrics in which the projecting threads are yarn loops or are cut to form a fibrous surface, and fabrics with a surface pile produced by incorporating special pile yarns; but does not include fabrics in which a fibrous surface or nap is produced by teasing a knitted or woven structure so as to cause some of the fibres to be drawn to the surface of the fabric:
- “ Trade description ”, in relation to any product or substance or any part thereof, means the name by which it is customarily known to those who trade in the product or substance:
- “ Wool ” means the natural fibre from the fleece of any variety of sheep:
- “ Wool product ” means every product and every portion of a product (whether in the form of piece-goods or made-up goods, and whether produced in New Zealand or elsewhere) which contains wool, except the following:—

- (a) Any such product or portion of a product which contains less than fifty per centum by weight of wool and which is not labelled, marked, advertised, described, or represented as woollen or worsted or as containing wool:
- (b) Footwear (other than socks and stockings) of any type or description:
- (c) Any pile fabric, irrespective of the wool content of the pile or ground:
- (d) Any partly manufactured wool product which is intended to be further processed before it is delivered to the ultimate consumer:
- (e) Any worn or used made-up goods offered for resale:
- (f) Any samples, swatches, or specimens of wool products which are not more than eighteen inches in length or width in any case and which are cut or taken, in the presence of a prospective purchaser or consumer of the product, from a bolt or piece which is labelled or marked as required by this Act:
- (g) Any portion of any wool product the weight of which, under subsection one of section five of this Act, does not require to be taken into account in determining the percentage by weight of wool in the product:
- (h) Any other wool products and any other portions of any wool products which the Governor-General, by Order in Council, declares shall not be wool products within the meaning of this Act.

**3. (1)** Except as otherwise provided in this Act, no person shall sell, or display, expose, or offer for sale, any wool product unless it is labelled or marked to show in the English language the trade description of the main fabric in the product and the percentage by weight of wool in the product:

Provided that this subsection shall not apply to any product if it is in a sealed container which is labelled or marked to show in the English language the trade description of the main fabric in the product and the percentage by weight of wool in the product and if the container remains unbroken and intact until after the product has been delivered to the consumer.

Wool products,  
samples, and  
containers to  
be labelled or  
marked.

(2) No person shall use any samples, swatches, or specimens of any wool product to promote or effect sales of the product in commerce unless the samples, swatches, or specimens are labelled or marked to show in the English language the trade description of the main fabric in the product and the percentage by weight of wool in the product:

Provided that nothing in this subsection shall apply to any samples, swatches, or specimens which are cut or taken, in the presence of a prospective purchaser or consumer of the product, from a bolt or piece which is labelled or marked as required by this Act.

(3) Where any wool product is in any container while it is being sold, or displayed, exposed, or offered for sale, the container shall be labelled or marked to show in the English language the trade description of the main fabric in the product and the percentage by weight of wool in the product:

Provided that it shall not be necessary to label or mark the container if the product is labelled or marked in accordance with this Act and the label or mark on the product is clearly visible.

(4) On the sale of any wool product the vendor shall leave every label or mark required by this Act on the product and on any container thereof which is not removed therefrom at or prior to the sale.

(5) In the case of uniforms, suits, bathing-costumes, hosiery, gloves, mittens, and other garments and wearing-apparel manufactured and sold for use in units comprising two or more pieces, it shall be a sufficient compliance with this section to use one label or mark for all the pieces of any one unit if all the pieces of that unit have the same trade description and contain the same percentage by weight of wool and are sold as one complete unit and the label or mark is clearly applicable to all the pieces and contains the required information and otherwise complies with this Act.

(6) In the case of any wool product or part of any wool product which may lawfully be labelled or marked to show that it contains one hundred per centum by weight of wool, it shall be a sufficient compliance with this section if the label or mark relating to the product

shows in the English language the trade description of the main fabric in the product and describes it as "all wool" or "pure wool" or by a description to like effect.

(7) In any case where, for the purpose of reinforcing any wool product or for any other useful purpose in connection with any wool product, a small proportion of fibre or material other than wool is superimposed or added to the product in distinct areas or sections, it shall be a sufficient compliance with this section if the product is labelled or marked to show in the English language—

- (a) The trade description of the main fabric in the product; and
- (b) The percentage by weight of wool in the portions of the product other than the areas or sections specified in the label or mark; and
- (c) The names of the fibres or materials superimposed or added in those areas or sections.

(8) Every person commits an offence against this Act who fails to comply with or does any act in contravention of the provisions of this section.

4. (1) No label or mark shall be sufficient for the purposes of this Act unless it complies with the following requirements:—

- (a) The label or mark shall be such as is appropriate to the nature of the product, container, sample, swatch, or specimen with which it is used:
- (b) The label or mark shall be sewed or stapled or attached or annexed to, or woven into, or printed or stencilled or branded or marked upon, the product, container, sample, swatch, or specimen with which it is used securely and with sufficient permanency and durability to remain thereon in a conspicuous, clear, and plainly legible condition until the product, container, sample, swatch, or specimen is received by the consumer or intended consumer:
- (c) The label or mark shall show the information required by this Act in a manner which is not likely to deceive; and the information shall not be minimized or rendered obscure or so placed as to be likely to be unnoticed or unseen by purchasers or consumers or prospective

purchasers or consumers by reason of small or indistinct type, or the use of larger or more prominent type with reference to fibres or materials other than wool, or insufficient background contrast, or crowding, intermingling, or obscuring with designs, vignettes, or other written, printed, or graphic matter, or by reason of anything else whatsoever.

(2) Labels or marks which in the course of the distribution, handling, and selling of the product are likely to become detached, indistinct, obliterated, illegible, mutilated, inaccessible, or inconspicuous shall not be sufficient for the purposes of this Act.

5. (1) In calculating the percentage by weight of wool in any product no account shall be taken of the weight of any of the following portions of the product:—

Calculation of  
percentage by  
weight of  
wool.

- (a) The linings, interlinings, padding, stiffening, facings, trimmings, borders, selvedges, buttons, labels, and trade-marks which form part of the product:
- (b) Such other portions of the product as the Governor-General, by Order in Council, may specify:
- (c) Any other ornamentation in the material up to seven per centum by weight of the balance of the wool product exclusive of the portions to which the foregoing paragraphs of this subsection relate.

(2) The percentage by weight of the wool in the balance of the product (exclusive of the portions to which the last preceding subsection relates) in relation to the total weight of that balance shall be deemed to be the percentage by weight of wool in the product for the purposes of this Act.

(3) For the purposes of this Act any label or mark shall be deemed to state accurately the percentage by weight of wool in any wool product to which it relates if—

- (a) The percentage stated is within one per centum of the correct percentage calculated as aforesaid in cases where the label or mark states or infers that the product contains one hundred per centum by weight of wool: or

(b) The percentage stated is within three per centum of the correct percentage calculated as aforesaid in other cases.

Fibres or materials not present in product not to be mentioned in label or mark.

Restriction on use of word "wool".

**6.** Every person commits an offence against this Act who sells, or displays, exposes, or offers for sale, any wool product which is labelled or marked to show that it contains any fibre or material which is not present in the product.

**7.** Every person commits an offence against this Act who sells, or displays, exposes, or offers for sale, any product or substance which does not contain wool if that product or substance is labelled or marked with a trade description which contains the words "artificial wool", "imitation wool", "synthetic wool", "substitute wool", or any other expression which includes the word "wool", or any abbreviation or variation of that word, or any word or words that incorporate that word, abbreviation, or variation:

Provided that nothing in this section shall prevent any substance which normally bears the trade description "cotton wool", "steel wool", "wood wool", "glass wool" or "slag wool" from being labelled or marked with that trade description, and nothing in this section shall prevent any other substance which the Governor-General, by Order in Council, specifies for the purposes of this section from being labelled or marked with the trade description specified in the Order in Council.

Power to take samples for testing.

**8.** Any constable, on payment or tender of the current market value of the samples referred to in this section, may take samples of any product or substance which is displayed, exposed, or offered for sale, and which is either labelled, marked, advertised, described, or represented as containing wool, or is reasonably believed by the constable to contain wool.

Defences.

**9. (1)** In any proceedings against any person for an offence committed against this Act in respect of any wool product at any time before the first day of April, nineteen hundred and fifty-two, it shall be a defence if the defendant proves that the product was manufactured in or imported into New Zealand before the first day of April, nineteen hundred and fifty:

Provided that no person shall be entitled to the benefit of this subsection unless he gives notice in writing to the prosecutor within seven days after service of the summons of his intention to rely on this subsection.

(2) Subject to the provisions of this section, in any proceedings against any person for any offence against this Act it shall be a defence if the defendant proves—

- (a) That he purchased the product or substance in respect of which the offence was alleged to be committed in reliance on a written warranty or other written statement as to the nature of the product or substance signed by or on behalf of the person from whom the defendant purchased it; and
- (b) That if the product or substance had truly conformed to the warranty or statement the act or conduct of the defendant would not have constituted the offence charged against him; and
- (c) That he had no reason to believe or suspect that the product or substance did not conform to the warranty or statement; and
- (d) That at the time of the commission of the alleged offence the product or substance was in the same state as when he purchased it.

(3) No warranty or statement shall be any defence under this section unless—

- (a) It was given or made by or on behalf of a person resident in New Zealand or a company having a registered office in New Zealand or a firm having a place of business in New Zealand; and
- (b) The signature thereto is written by hand; and
- (c) The defendant proves that at the time he received the warranty or statement he took reasonable steps to ascertain, and did in fact believe, that the signature was that of the person from whom he purchased the product or substance, or, as the case may be, of some person purporting to sign on behalf of the person from whom the defendant purchased the product or substance.

(4) No warranty or statement shall be any defence in any prosecution unless the defendant has within seven days after service of the summons delivered to the prosecutor a copy of the warranty or statement, with a written notice stating that he intends to rely thereon and specifying the name and address of the person from whom he received it, and has also within the same time sent by post a like notice of his intention to that person.

(5) When the defendant is a servant or agent of any person to whom any defence under this section would be available he shall be entitled to the benefit of this section in the same manner and to the same extent as his employer or principal would have been if he had been the defendant.

**Penalties.**

**10.** Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section shall be liable on summary conviction to a penalty not exceeding fifty pounds in the case of a first conviction for such an offence, and to a penalty not exceeding two hundred pounds in the case of a subsequent conviction for such an offence.

**11.** Nothing in this Act shall affect the operation of the Patents, Designs, and Trade-marks Act, 1908.

Patents,  
Designs, and  
Trade-marks  
Act, 1908,  
not affected.

See Reprint  
of Statutes,  
Vol. VI, p. 644

**Regulations.**

**12. (1)** The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

**(2)** All regulations made under this Act shall be laid before Parliament within twenty-eight days after the making thereof if Parliament is then in session, and, if not, shall be laid before Parliament within twenty-eight days after the commencement of the next ensuing session.