



FALSE TRADE DESCRIPTIONS

What interest do Customs have in goods that are falsely labelled?

The *Commerce (Trade Descriptions) Act 1905* and the *Commerce (Imports) Regulations 1940* set out the requirements for the labelling of goods imported into and exported from Australia. Customs administer this legislation.

The Act prohibits the importation of certain goods unless they are correctly marked with the required trade description. There are currently no requirements setting out specific marking requirements for exported goods.

The Act prohibits the importation and exportation of goods that bear a false trade description.

What is a trade description?

A trade description means any description, statement, indication or suggestion as to the how or by whom the goods were made, produced, selected, packed or otherwise prepared. A trade description may include a direct or indirect reference to any of these things.

What is a false trade description?

A false trade description can be any description of goods that is incorrect or misleading. This may include direct or indirect details of size, weight, quality, quantity, origin, manufacturer, ingredients or the application of a trade mark, patent or copyright, and includes all possible alterations of a trade description, whether by way of addition, effacement, or otherwise.

A trade description may also be false if information is omitted from the description and this misleads the consumer as to the true description of the goods.

How does it affect me as an importer or exporter?

As an importer or exporter you need to be aware of the labelling applied to the goods you are intending to import or export. Care will need to be taken to ensure that anything contained in or omitted from the label will not mislead the consumer in a material respect.

You should also be aware that:

- the Act prohibits the importation or exportation of any goods to which a false trade description has been applied. There is no exception. The Act does not differentiate between goods imported or exported for wholesale or retail sale
- the labelling requirements apply to all commercial shipments, regardless of the quantity
- goods imported or exported for personal use are not subject to these labelling requirements.

What if my goods have a false trade description?

The Act provides that imported goods or goods for export to which a false trade description has been applied may be seized by Customs.

While Customs may require the re-labelling of contravening goods where it is considered that the contravention was neither intentional or reckless, we recommend that you ensure your goods comply with the legislation prior to their importation or exportation.

Your goods can only be released once the trade description is no longer false and all other Customs formalities have been completed. In all cases you will be asked to provide evidence that you have instructed your suppliers to correctly label goods in future.

For more information

Further information regarding labelling on imported goods can be found on the Customs website www.customs.gov.au in Australian Customs Notice 2006/39.

Click on the following link for information on the related export topic:

[Labelling Requirements for Exported Goods](#)

For information on any Customs matter, go to the Customs website at www.customs.gov.au, email your inquiry to information.customs.gov.au or phone the Customs Information and Support Centre on 1300 363 263.