



NATIONAL CONSUMER COMMISSION

a member of **the dtic** group

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**TRADE DESCRIPTION REQUIREMENTS: A GUIDE TO IMPORTERS OF CLOTHING,
TEXTILES, FOOTWEAR(SHOES) AND LEATHER GOODS: GUIDE NUMBER 001/05/2022**

1. DISCLAIMER

- 1.1 This guidance is published by the National Consumer Commission (the NCC) in terms of section 96 (b) (i) of the Consumer Protection Act, 2008 (No. 68 of 2008) (CPA).
- 1.2 The guidance which the NCC provides does not relieve the user of the guide from their responsibility to exercise their own skill and care in relation to the user's legal position.
- 1.3 This guide does not provide legal advice and is not intended to replace the CPA and Regulations issued published thereunder.
- 1.4 The NCC accepts no liability for any loss suffered as a result of reliance on this publication.

2. BACKGROUND

- 2.1 The Consumer Protection Act (CPA) was enacted in order to:
 - promote and protect the economic interests of consumers;
 - improve access to, and the quality of information that is necessary so that consumers are able to make informed choices according to their individual wishes and needs;
 - protect consumers from hazards to their well-being and safety;
 - develop effective means of redress for consumers.
- 2.2 Section 24 of the CPA stipulates the requirements placed entirely on the importers who intend to bring clothing, textiles, shoes and leather goods into the Republic and highlights the related trade description required.

- 2.3 The NCC is responsible for exercising the functions assigned to it in terms of the CPA, which include the enforcement powers and promoting public awareness of consumer protection matters.
- 2.4 The NCC hereby issues this Guide to assist importers to comply with the CPA.

3. DEFINITIONS:

For the purposes of these Guidelines, the following terms shall have the following meanings:
“**Clothing**” means Clothing as listed in Chapters 61, 62 and 65 of the Harmonized Customs Tariff.

“**CPA**” means the Consumer Protection Act 68 of 2008

“**CPA Regulations/Regulations**” means the Consumer Protection Act 2008 (Act 68 of 2008) Regulations

“**Exempted Goods**” mean those Goods referred to in Regulation 6 (2) of the CPA Regulations, being:

- (a) textiles so small in size that labelling is not reasonably possible.
- (b) second-hand clothing imported for charity purposes; or
- (c) goods where the number of goods imported by a natural person does not exceed 1 000 single items in any one calendar month.

NB: Goods imported for marketing purposes are not exempted Goods even if they satisfy the definition of Exempted Goods.

“**Harmonized Customs Tariff**” means the Customs and Excise Tariff

“**Leather/leather Goods**” mean Leather Goods as listed in Chapters 42 and 43 of the Harmonized Customs Tariff.

“**Shoes**”/**Footwear** means shoes as listed in Chapter 64 of the Harmonized Customs Tariff

“**Textiles**” means Textiles as listed in Chapter 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 63 of the Harmonized Customs Tariff.

NB: It is noted that the Goods listed in Chapter 94.04 of the Harmonized tariff are mostly Made out of Textiles. Importers are encouraged to apply the Trade Description required in terms of the CPA and Regulations to the goods listed in Chapter 94.04 as well.

“**Trade Description**” means any description as to the information required in terms of Section 24(5) (a) and (b) of the CPA, read with Regulation 6(1) of the CPA Regulations

4. APPLICATION OF THESE GUIDELINES:

- 4.1 These Guidelines apply to a Trade Description required to be applied to the Goods listed in Annexure “D” of the CPA Regulations.

- 4.2 These Guidelines amend, replace and substitute all Guidelines previously published relating to the application of a Trade Description to those Goods listed in Annexure "D" of the CPA Regulations.

5. APPLICATION OF CPA- TRADE DESCRIPTION REQUIREMENTS:

- 5.1 The CPA Trade Description requirements apply to all categories of goods except exempted goods. Where the CPA does not apply, the goods may still be required to comply with other legislation, including the Counterfeit Goods Act and the Trademarks Act; however, such goods fall outside the scope and mandate of the National Consumer Commission;
- 5.2 When an Importer intends to import clothing, textile, shoes and leather goods into the Republic, it is recommended for the Importer to follow this guide at the time of importation in determining whether the said goods are required to comply with the CPA and its Regulations, as well as the applicable SABS's SANS standards, to ensure that the goods are compliant at the time of arriving at the South African ports of entry:
- 5.2.1 Determine what the tariff codes for the goods are and whether they are listed in Annexure "D" of the CPA Regulations.
- 5.2.2 Annexure "D" of the CPA Regulations specify three categories of Goods, namely:
- a) **Textiles** as listed in Chapter 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 63 of the Harmonized Customs Tariff.
 - b) **Clothing** as listed in Chapters 61, 62 and 65 of the Harmonized Customs Tariff.
 - c) **Shoes and leather goods** as listed in Chapters 42, 43 and 64 of the Harmonized Customs Tariff.
- 5.3 If the Goods fall within the above-mentioned categories, they must to comply with the Trade Description requirements of the CPA and its Regulations:

6. OBLIGATIONS OF THE IMPORTERS

- 6.1 Imported goods are required to have a trade description attached to them in a conspicuous and legible manner stating clearly, before shipment to ensure that the goods are compliant at the time of arriving at the South African ports of entry:
- a) The country in which they were manufactured, produced or adapted (Country of Origin);
 - b) Care labelling and Fibre Content (The goods must conform to the South African national standards for fibre content and care labelling in accordance with the

provisions of Government Notice No. 2410 of 2000, published in the Gazette of 30 June 2000).

- c) If the goods have been reconditioned, adapted, rebuilt or remade, a trade description stating clearly that the goods have been reconditioned, adapted, rebuilt or remade:
- d) The trade description must not be altered, defaced, covered, removed or obscured:
- e) A correct Trade Description (the applied Trade Description must not be misleading)
- f) The trade description must comply with Section 22 of the CPA in that it must be in plain language (not in a foreign language).

6.2 The above Trade Description must not be misleading.

6.3 The trade description must be clearly legible, and the labelling material shall be easy to read and be capable of lasting throughout the useful life of the labelled product.

6.4 The trade description shall be permanently affixed to the textile material, in such a way that they can be easily located and read by the consumer and that no part of the symbols is hidden.

7. TRADE DESCRIPTION REQUIRED IN RESPECT OF THE DIFFERENT CATEGORIES OF GOODS:

7.1 TEXTILES AND CLOTHING

Textiles as listed in Chapters 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 and 63 of the Harmonized Customs Tariff and **Clothing** as listed in Chapters 61, 62 and 65 of the Harmonized Customs Tariff:

- a) Country of Origin:
- b) Care labelling and Fibre Content (The goods must conform to the South African national standards for fibre content and care labelling in accordance with the provisions of Government Notice No. 2410 of 2000, published in the Gazette of 30 June 2000).
- c) If the goods have been reconditioned, adapted, rebuilt or remade, a trade description stating clearly that the goods have been reconditioned, adapted, rebuilt or remade.
- d) The trade description must not be altered, defaced, covered, removed or obscured:
- e) A correct Trade Description (the applied Trade Description must not be misleading)
- f) The trade description must comply with Section 22 of the CPA in that it must be in plain language (not in a foreign language)

7.2 FOOTWEAR (SHOES) AND LEATHER GOODS

Shoes and leather goods as listed in Chapters 42, 43 and 64 of the Harmonized Customs Tariff.

- 7.2.1 All the above requirements (in 6.1) apply, with the exclusion of Care labelling and Fibre content.
- 7.2.2 At this stage, there is no legal requirement that Shoes and Leather Goods need to conform to the South African national standards for fibre content and care labelling in accordance with the provisions of Government Notice No. 2410 of 2000, published in the Gazette of 30 June 2000;
- 7.2.3 The importation of Shoes / Footwear under Chapter 64 of the Harmonized Customs Tariff is included in the SARS Customs Prohibited and Restricted import and export list requiring:
If CITES listed species, a permit is required from the Nature Conservation Authority (leather such as seal, crocodile, snake)

7.3. Clothing, textiles, and footwear

- i) Must adhere to Trade Description requirements. Examples of care labelling symbols that may be found on products are provided in SC-CC-32-A01(Care Labelling External Annex).
- ii) Not adhering to the Trade Description requirements identified at the time of importation will be detained. Where the non-compliance cannot be resolved, such goods may only be disposed of by:
- (a) Re-exporting off the African continent; or
 - (b) Destroying at the cost of the importer.

8. HOW SHOULD TRADE DESCRIPTION BE APPLIED TO THE GOODS:

The required trade description must be applied to the various categories of Goods in the following manner:

8.1 TEXTILES:

- 8.1.1 When possible, directly on the fabric; or
- 8.1.2 On a label securely attached to the textiles in such a manner that the symbols are clearly visible and no part of the symbols is obscured; or
- 8.1.3 On the packaging or on a label firmly attached to the packaging; or
- 8.1.4 When textiles are passed between processors (e.g. fibre processors, yarn spinners, fabric knitters, fabric weaver, leather processors, coaters or finishers of synthetic leather, leather and general goods manufacturer, or clothing, home textile or

footwear manufacturer, etc) and are not offered for sale to the consumer, a trade description may be contained in the commercial documents that accompany the goods, such as the invoice, receipt, brochure or pamphlet, relating to the specific textile. The commercial document must accompany the goods at the time of importation and not be acquired at a later stage. It is expected that such document be submitted to Customs at the time of declaration.

8.1.5 All trade description requirements apply even to unfinished goods.

8.1.6 The trade description in the commercial documents of unfinished goods, specifically the primary textile materials, must include a consumer care labelling description that is necessary for the textile manufacturers to enable the downstream processors to include such care instructions on final consumable products on specific consumer protection requirements related to the primary textile materials.

8.2 CLOTHING:

8.2.1 Directly on the clothing; or

8.2.2 On a label securely attached to the clothing in such a manner that the symbols are clearly visible and no part of the symbols is obscured; and

8.2.3 On the packaging or on a label firmly attached to the packaging where applicable.

8.2.4 When goods are sold as a complete unit, for example, a skirt and a top, only one label or indication of the trade description is required, provided that the items comprising the complete unit will withstand the same care treatment.

8.3 FOOTWEAR (SHOES) AND LEATHER GOODS.

8.3.1 Directly on the Goods; or

8.3.2 On a label securely attached to the goods in such a manner that the symbols are clearly visible and no part of the symbols is obscured; and

8.3.3 On the packaging or on a label firmly attached to the packaging where applicable.

9. AT WHAT STAGE IS THE TRADE DESCRIPTION TO BE APPLIED TO THE GOODS:

9.1 The Trade Description requirements apply to goods at the time of importation, before shipment to ensure that the goods are compliant at the time of arriving at the South African ports of entry;


- 9.2 It is the duty of the importer to ensure that its supplier delivers goods that are compliant. It is not an excuse for the importer to allege that its supplier failed to follow instructions or that the supplier was not aware of the Trade Description requirements;
- 9.3 Non-compliance cannot be corrected/rectified by allowing the non-compliant goods to be labelled within the Republic or in the Ports;
- 9.4 Importers are encouraged to familiarise themselves with the following SANS standards:

SANS-10235-2007 - Fibre-content labelling of textiles and textile products
SANS 10011-2007 – Care-labelling of textile piece goods, textile articles and clothing
SANS 8559-2-2019 - Size designation of clothes
SANS 3058:2019 - Textiles - Care labelling codes using symbols
SANS 10153:2019 - The labelling and marking of textiles and household textile

10. CONSEQUENCES OF NON-COMPLIANCE:

- 10.1 Not adhering to the Trade Description requirements identified at the time of importation will be detained and such goods may only be disposed of by
- (a) Re-exporting off the African continent; or
 - (b) Destroying at the cost of the importer.
- 10.2 In addition to Exportation or destruction of the Goods, an administrative fine may be imposed in terms of Section 112 of the CPA. The administrative fine may not exceed the greater of—
- (a) 10 per cent of the respondent's annual turnover during the preceding Financial year; or
 - (b) R1 000 000 (One Million Rands Only).

Issued on behalf of the National Consumer Commission on this 12th Day of September 2022



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