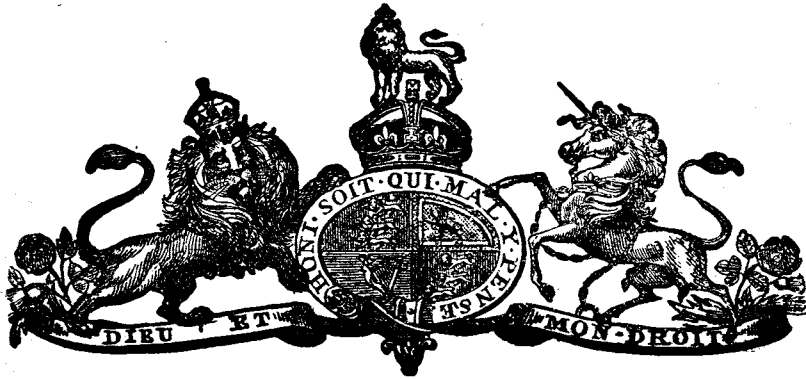


# TASMANIA



1918.

ANNO NONO

GEORGI V. REGIS.

No. 5.

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AN ACT to regulate the Manufacture and Sale of Footwear and for other purposes. <sup>A.D.</sup> 1918.

[25 September, 1918.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as “The Footwear Act, 1918.”

Short title.

6d.]

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Commencement.

Cf. No. 1046

s. 2 (S.A.).

No. 2869 of 1916

s. 2 (Vic.) (*sic.*)

Interpretation.

Cf. *ib.* s. 3 (S.A.).

s. 3 (Vic.).

Cf. No. 43 of

1913, s. 3 (N.Z.).

**2** This Act shall come into force on a day to be fixed by Proclamation.

**3** In this Act unless inconsistent with the context or subject-matter—

“Inspector” means any person appointed or acting as an inspector of factories under any Act for the time being in force relating to factories, and includes the Chief Inspector and any acting or deputy chief inspector under any such Act :

“Minister” means the responsible Minister of the Crown for the time being administering the Acts for the time being relating to factories :

The verb “to sell,” in whatever person, number, tense, mood, or voice it is used, includes to offer or attempt to sell, or receive for sale, or have in possession for sale, or expose for sale, or send, forward, or deliver for sale, or cause or suffer or allow to be sold, offered, or exposed for sale, and refers only to sale for human use or for analysis. All participles of the verb “to sell” and the noun “sale” have corresponding connotations :

The expressions “to sell,” “sale,” and “sold” wherever occurring in the foregoing definition of “to sell,” include “to supply,” “supply,” and “supplied :”

“Shoes” includes slippers and sandals :

“Sole” means all that part of a boot or shoe which in use is under the foot of the wearer, including both the outsole and the insole and also including the heel, except the thin slip of leather, paper, or the like material which is affixed to the surface of the inner sole, and also except thread, wax, rivets, pegs, nails, toe-plates, and heel-plates.

**4** If any person manufactures for sale or sells any boots or shoes the soles of which do not consist entirely of leather, he shall, unless a true statement of the materials composing the sole is conspicuously and legibly stamped upon or impressed into the outer surface of the sole of each boot or shoe on that portion of the sole known as the waist, be guilty of an offence against this Act, and shall be liable to a penalty of not less than Five Pounds nor more than Twenty Pounds : Provided that this section shall not apply—

i. Where the outsole consists entirely of rubber : or

ii. Where the only material in the sole other than leather consists of One or more of the following :—

(a) Ordinary fillers of board, cork, or waterproof felt ;

(b) Canvas used to reinforce the insole ;

(c) A prescribed material used as prescribed in the manufacture of shanks ;

(d) Wood used in the heels of ladies' footwear ; and

(e) Stiffening of such materials, and so made as prescribed.

Soles to be of solid leather or stamped with name of material. Cf. *ib.* s. 4 (S.A.). s. 4 (Vic.). Cf. s. 4 (N.Z.)

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**5** If any person sells any boots or shoes which do not bear stamped upon or impressed into the soles thereof in legible characters his own name or registered trade mark or the name or registered trade mark of the manufacturer or maker of such boots or shoes, he shall be guilty of an offence against this Act, and shall be liable to a penalty of not less than Five Pounds nor more than Twenty Pounds: Provided that where boots or shoes are manufactured or made to the order of any person for sale by him it shall be a sufficient compliance with the requirements of this section if the boots or shoes bear his name or registered trade mark stamped upon or impressed into the soles thereof in legible characters.

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Boots, &c., to bear name of manufacturer.  
*Ib. s. 5 (Vic.).*

**6** If any person manufactures for sale or sells any boots or shoes the soles of which consist of leather having an admixture of any weighting substance specified in the regulations, he shall be guilty of an offence against this Act, and shall be liable to a penalty of not less than Five Pounds nor more than Twenty Pounds.

Soles not to contain weighting substance.  
*Cf. ib. s. 6 (Vic.).*

**7—(1)** Where any person is prosecuted under this Act for manufacturing for sale, or selling, any boots or shoes, the soles of which consist of leather having an admixture of any weighting substance specified in the regulations, he shall be entitled to be discharged from such prosecution upon proving—

Use of guarantees in defence.  
*Cf. 1 Geo. V. No. 22, s. 52. Cf. No. 2665 of 1915, s. 110 to 112 (Vict.).*

- I. That he has received from the person from whom he purchased the boots or shoes, or (if the defendant is a manufacturer of boots or shoes) the sole leather used by him in manufacturing the boots or shoes, a guarantee in writing that the soles of such boots or shoes, or the sole leather so used as aforesaid, as the case may be, did not contain any weighting substance specified in the regulations; and
- II. That at the time when he sold such boots or shoes he had no reason to believe that the soles thereof contained any weighting substance specified in the regulations; and
- III. That he sold such boots or shoes in the same state as when he purchased them, or, in the case of the sale of boots or shoes manufactured by him for sale, that the sole leather thereof was, in regard to weighting substances, in the same state as when he purchased such sole leather—

subject to the following conditions:—

- I. The person giving the guarantee must be resident in the Commonwealth, or, if a company, must have a registered office in the Commonwealth:
- II. The guarantee must state the name and address of the place of business of the guarantor, and the name under which he trades:
- III. The guarantee must be given in respect of specific boots or shoes, or sole leather, as the case may be, and must refer to a bill of sale, invoice, bill of lading, or other document describing the articles, the quantity thereof, the sizes in

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the case of boots or shoes, and the weight in the case of sole leather, but such guarantee shall not be available as a defence unless the defendant has, within Seven days after service of the summons, sent to the purchaser a copy of such guarantee with a written notice stating that he intends to rely on the same as a defence, and specifying the name and address of the person giving the guarantee, and has also sent a like notice of his intention to the person giving the guarantee.

(2) The person by whom such a guarantee is alleged to have been given shall be entitled to appear at the hearing, and to give evidence, and the presiding magistrate or justices may, if he or they think fit, adjourn the hearing to enable him to do so.

(3) Every person who wilfully applies to any sole leather sold by him to the manufacturer of boots or shoes for sale, or to the sole leather in any boots or shoes sold by him, a guarantee given in relation to any other sole leather or boots or shoes, shall be guilty of an offence against this Act, and shall be liable to a penalty of not more than Ten Pounds.

(4) Every person who gives a false guarantee in writing to any purchaser in respect of any sole leather to be used by him in the manufacture of boots or shoes for sale, or in respect of any boots or shoes sold by him as principal or agent, shall be guilty of an offence against this Act, and shall be liable to a penalty of not more than Ten Pounds.

Powers of  
inspectors.  
Cf. S.A. No.  
1046, s. 6.  
s. 7 (Vic.).  
Cf. s. 5 (N.Z.).

**8—(1) Any inspector—**

- i. May enter any place where boots or shoes are manufactured or sold, or any place where he has reason to believe any of such things is done ;
- ii. May inspect any articles in such place ;
- iii. Shall, at the request of any person apparently in charge of such place or of any work carried on therein, produce a certificate of his appointment as inspector ; and
- iv. May in any such place take any boots or shoes, whether manufactured or partly manufactured, paying a just price for the same.

Penalty for  
obstructing  
inspector.  
*Ib.* s. 7 (Vic.),  
s. 7 (S.A.).

(2) A person who hinders or obstructs, or attempts to hinder or obstruct, any inspector in the exercise by him of the powers conferred by this Act shall be guilty of an offence against this Act and shall be liable to a penalty of not less than Five Pounds nor more than Twenty Pounds.

Proceedings  
against offenders  
to be directed by  
Minister.  
*Ib.* s. 8 (Vic.)  
(sic).

**9—(1) Every offence against this Act or the regulations shall be reported to the Minister, who may direct proceedings to be taken against the offender by any member of the police force or by any inspector.**

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(2) In any proceedings if the presiding magistrate or justices amend the information warrant or summons for any variance between it and the evidence on the part of the prosecution the direction of the Minister as aforesaid shall be sufficient authority for the continuance of the proceedings after such amendment.

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Effect of authority to prosecute.

**10** In any prosecution under this Act, unless the contrary is proved—

- i. Any person who manufactures boots or shoes shall be deemed to manufacture them for sale or supply; and
- ii. Any person who carries on business in any place where any boots or shoes are kept in stock shall be deemed to have such boots or shoes in his possession for sale or supply.

Proof of manufacture for sale.

*Ib.* s. 9 (Vic.)*(sic)*.

Cf. s. 8 (S.A.)

Cf. s. 6 (N.Z.).

**11** In any prosecution under Section Four of this Act, if the defendant proves that the boots or shoes which are the subject of the prosecution were purchased by him from any manufacturer, importer, or wholesale dealer named by the defendant and that he had no reason to believe that the soles of such boots or shoes (not being stamped or marked in accordance with the said Section Four) contained any material making it obligatory for such soles to be so stamped or marked, the information shall be dismissed.

Information to be dismissed in certain circumstances.

*Ib.* s. 10 (Vic.)

Cf. s. 7 (N.Z.).

**12** In any prosecution under this Act it shall be no defence that the defendant is only the agent or servant of the owner of or person dealing in the boots or shoes, or having the same for sale, but the agent or servant and the owner or person aforesaid shall be liable.

Agent or servant liable in addition to principal.

Cf. 1 Geo. V.

No. 22, s. 53

(Tas.).

Provided that a servant shall not be liable if he proves that the offence was committed in a store, shop, stall, or other similar place in which business was, at the time of the committing of the offence, conducted under the personal superintendence of the owner of the business or some manager or other person representing such owner.

**13**—(1) If the defendant, being an agent or servant, proves that he sold the boots or shoes without knowledge that any provision of this Act for a breach whereof he is being prosecuted had been contravened or had not been complied with, he may, whether his principal or employer has or has not been convicted and fined, recover in any court of competent jurisdiction from his principal or employer the amount of any penalty in which he himself has been convicted in respect of such prosecution, together with the costs thereof paid or payable by him upon his conviction and those paid or payable by him in and about his defence to the prosecution.

Agent or servant may recover from principal.

Cf. *Ibid.*, s. 54.

(2) Where an agent or servant has been convicted as aforesaid, the convicting magistrate or justices may, if he or they think fit, suspend the operation of the conviction for any period not exceeding Three months, to enable him to recover from his principal or employer the penalty and costs aforesaid.

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Prosecution of  
employee for a  
breach of Section  
Six of this Act.  
*Ibid.*, s. 55 (Tas.).

**14** When a defendant prosecuted for a breach of the provisions of Section Six of this Act is the servant of a person who purchased the sole leather or boots or shoes under a guarantee in accordance with Section Seven of this Act, he shall be entitled to be discharged from such prosecution on proving that at the time he sold the boots and shoes in question he had no reason to believe that the soles thereof contained any weighting substance specified in the regulations.

Non-application  
temporarily to  
goods in stock  
before passing of  
Act.  
Vic. s. 11.

**15** So far only as relates to the sale, or supply, or exposing for sale, or having in possession for sale or supply of boots or shoes in the possession of any person before the passing of this Act, Sections Four and Five of this Act shall not apply to any such person until after the expiration of Six months after the coming into force of this Act, but this time may, upon the application in writing of any such person, supported by a statutory declaration deemed satisfactory by the Minister, be extended by the Minister for such further period not exceeding Six months as he thinks reasonable; and so far only as relates to the manufacture or sale or supply of boots or shoes, Section Five of this Act shall not apply to any such boots or shoes in any case where an inspector is satisfied that such boots or shoes are intended for export from Tasmania, and that save as provided in the proviso to Section Four of this Act, the soles of such boots or shoes consist entirely of leather.

Regulations.  
Cf. *ib.* s. 10  
(S.A.).  
Cf. s. 12 (Vic.).  
Cf. s. 8, (N.Z.).

**16** The Governor may make regulations for carrying out the provisions of this Act, and in particular—

- i. Prescribing the manner of marking the soles of boots and shoes in pursuance of such provisions :
- ii. Prescribing the materials of which, and the manner in which shanks and stiffening, not consisting of solid leather, used in the soles of boots and shoes, may be manufactured and used :
- iii. Specifying the weighting substances, the admixture of which in leather forming part of the soles of boots and shoes is prohibited : and
- iv. Imposing any penalty of not less than Two Pounds nor more than Ten Pounds for any breach of the regulations.

Summary  
proceedings for  
offences.

**17** All proceedings in respect to offences against this Act shall be disposed of summarily.