



Harris Tweed Act 1993

1993 CHAPTER xi

PART I

PRELIMINARY

1 Short title, commencement and extent

- (1) This Act may be cited as the Harris Tweed Act 1993.
- (2) The provisions of this Act, other than those contained in this section, shall come into force at the end of the period of three months beginning with the date on which the Act is passed.
- (3) This Act except section 10 thereof does not extend to Northern Ireland.

2 Interpretation

In this Act unless the subject or the context otherwise requires—

- “the Act of 1938” means the Trade Marks Act 1938;
- “the Authority” means the Harris Tweed Authority constituted by Part II of this Act;
- “the Company” means The Harris Tweed Association Limited;
- “the Council” means the Western Isles Islands Council;
- “Harris Tweed” has the meaning assigned to it by section 7 of this Act;
- “Harris Tweed trade mark” means a mark registered, or deemed to have been registered, under any enactment for the purpose of distinguishing goods certified as being Harris Tweed from goods not so certified;
- “the Outer Hebrides” means the islands of Harris, Lewis, North Uist, Benbecula, South Uist and Barra and their several purtenances;
- “Registrar” means the Comptroller-General of Patents, Designs and Trade Marks;

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“the sheriff principal” means the sheriff principal for the time being of the sheriffdom of Grampian, Highland and Islands, or other the sheriffdom which for the time being includes the Outer Hebrides;

references to the definition of Harris Tweed are to the definition which, for the purposes of this Act, has effect for the time being by virtue of sections 7 and 8 of this Act;

references to a person involved in the Harris Tweed industry are references to any person who is engaged, or has any financial interest (other than merely as an investor holding not more than three per centum of the issued investments of any class in a public company), in—

- (a) the supplying of wool to be used in the production of material falling within the definition of Harris Tweed;
- (b) any of the processes (from dyeing and spinning onwards) involved in such production;
- (c) the submission of material for authentication as Harris Tweed;
- (d) any of the processes involved in the production of garments or other articles made wholly or partly from material falling within the definition of Harris Tweed; or
- (e) the sale of such material or such articles.

PART II

THE HARRIS TWEED AUTHORITY

3 Creation and duties of Authority

- (1) There shall be a body, having its seat in the Outer Hebrides in Scotland and known as the Harris Tweed Authority, charged with the general duty of furthering the Harris Tweed industry as a means of livelihood for those who live in the Outer Hebrides by safeguarding the standard and reputation of, promoting awareness in all parts of the world of, and disseminating information about, material falling within the definition of Harris Tweed and articles made from it; and charged to that end with particular duties, namely—
 - (a) a duty to consider and keep under review in respect of any Harris Tweed trade mark the desirability of applying for the alteration of regulations approved under the provisions of Schedule 1 to the Act of 1938 (or for the approval or alteration of any regulations replacing such regulations under any enactment replacing those provisions) so as to specify characteristics to be possessed by a tweed in addition to those set out in paragraph (a) of section 7 below for it to qualify as Harris Tweed; and
 - (b) a duty by means of proceedings taken under the provisions of Part IV of this Act and in any other appropriate ways, to take such steps as are practicable to ensure that material which does not comply with the definition of Harris Tweed is not represented as being Harris Tweed.
- (2) The Schedule to this Act shall have effect with respect to the constitution and proceedings of, and other matters relating to, the Authority.
- (3) The requirement in subsection (1) above that the Authority shall have its seat in the Outer Hebrides in Scotland is a requirement—

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- (a) that it shall maintain its official address there for the purpose of receiving notices or other communications; and
- (b) that its central management and control shall be exercised there.

4 Financing of Authority

- (1) The Authority may, subject to and in accordance with the provisions of this section, make charges for the use of a Harris Tweed trade mark.
- (2) Charges made under this section shall be of such amounts as appear to the Authority to be necessary for meeting, or for establishing or maintaining a reserve fund to meet, the expenses of the Authority (outwith as well as within the United Kingdom) in authenticating material as Harris Tweed and in carrying out its other functions.
- (3) The Authority shall notify the Registrar in writing of the amounts of charges it intends to make and the Registrar may, within one month of being so notified, reduce or disallow any such amounts if in his opinion they would be excessive.
- (4) Upon the expiration of one month from the notification to the Registrar under subsection (3) above of the amounts of charges intended to be made, they shall, if not disallowed and subject to any reduction by the Registrar, come into force.
- (5) If the Authority, in order to facilitate the use by any person of a Harris Tweed trade mark or other mark of which the Authority is the proprietor, supplies labels which incorporate the mark, it may make a charge (additional to those authorised under subsection (1) above) to cover the cost of the production and supply of the labels.
- (6) The Authority shall keep available, for inspection and copying, at the premises which constitute its official address and at any other premises in the Outer Hebrides which are under its control, a notice of the amounts of charges in force for the time being under this section.

5 General and specific powers

In addition to any powers conferred elsewhere in this Act and without prejudice to any limitations imposed on those powers, the Authority may do anything, whether in the United Kingdom or in any other part of the world, which is calculated to facilitate or is incidental or conducive to the performance of the duties set out in section 3 of this Act and (without prejudice to the generality of the foregoing words) shall in particular have power—

- (a) to publicise or join in publicising, through advertisements or otherwise, the nature, origin and qualities of material falling within the definition of Harris Tweed;
- (b) to instigate or join in instigating, and to meet or contribute to the cost of, research into, and the provision and development of technology for use in or in connection with, the production of such material;
- (c) to register and maintain in any part of the world intellectual property rights including patents, trade marks and other marks and designs, and to authorise the user of such intellectual property on such lawful terms and conditions as the Authority may think fit;
- (d) to take or join in taking such steps, including legal proceedings, as may lawfully be taken in any jurisdiction in the world in order—

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- (i) to defend against infringement or likely infringement any intellectual property rights so registered and any other intellectual property; and
- (ii) to prevent, or put a stop to, any person selling, exposing or offering for sale or having in his possession for the purposes of sale—
 - (aa) any material which is represented as Harris Tweed but is not Harris Tweed; or
 - (bb) any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed when it has not been so made;
- (e) to promote or establish, or to join in promoting or establishing, bodies corporate or unincorporate in any part of the world;
- (f) to receive grants and to accept gifts of money or other property to be used in meeting its expenses or in furthering its objects or some one or more of them;
- (g) to hold, acquire, take on lease, feu, sell, hire out, lease or otherwise dispose of immovable or moveable property or any interest therein;
- (h) to build, alter, improve and equip premises for its own occupation or use or for any other purpose connected with its functions under this Act;
- (i) to act directly or through an attorney or other agent, or itself to act as agent for another person and, without prejudice thereto, to arrange for the discharge of any of its functions, and prescribe duties to be performed, by a committee or an employee upon such terms as it thinks fit and with respect to any function so delegated or duty so prescribed to delegate to the committee or employee such of its powers as are requisite for discharging the function or performing the duty;
- (j) to borrow money and grant security over or pledge, mortgage or charge any of its property for the purpose of meeting the expenses incurred or to be incurred in discharging its functions under this Act;
- (k) to establish and maintain a reserve fund for meeting such expenses;
- (l) to invest any money comprised in the reserve fund, and any other money not required for immediate use, in or upon such investments, securities or property as it thinks fit; and
- (m) to promote or otherwise seek, or to oppose, legislation in the United Kingdom or any other part of the world.

6 Accounts

- (1) It shall be the duty of the Authority—
 - (a) to keep proper accounts and proper records in relation to the accounts; and
 - (b) to prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts shall give a true and fair view of the state of the Authority's affairs at the end of the financial year and of its income and expenditure in that year.
- (3) The accounts shall be audited by a person to be appointed in respect of each financial year by the Authority and the auditor shall be provided by the Authority with copies of the statement of accounts.
- (4) The provisions of Part II of the Companies Act 1989 (which deal with the eligibility of persons for appointment as company auditors) shall apply in relation to the Authority as if the Authority were a company within the meaning of those provisions and as if a

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person appointed as auditor of the Authority were, within their meaning, a company auditor.

- (5) When it receives the auditor’s report on its accounts for any financial year, the Authority shall send the Council copies of the accounts and of the report.
- (6) In this section “financial year” means the 12 months ending with 31st December; but without prejudice to the Authority’s power subsequently to alter, if it sees fit, the date to which its financial year runs.

PART III

DEFINITION OF HARRIS TWEED

7 Definition of Harris Tweed

In this Act “Harris Tweed” means a tweed which—

- (a) has been handwoven by the islanders at their homes in the Outer Hebrides, finished in the Outer Hebrides, and made from pure virgin wool dyed and spun in the Outer Hebrides; and
- (b) possesses such further characteristics as a material is required to possess under regulations from time to time in force under the provisions of Schedule 1 to the Act of 1938 (or under regulations from time to time in force under any enactment replacing those provisions) for it to qualify for the application to it, and use with respect to it, of a Harris Tweed trade mark.

8 Additional requirements in relation to Harris Tweed

- (1) Regulations which prescribe additional requirements for the purposes of section 7 (b) above may include such transitional or other provisions as the Registrar or other appropriate officer may think fit concerning the application of the regulations to material which is already in the course of production and additional requirements shall not apply to material the production of which has, at the time when the application for the regulations which prescribe the additional requirements is advertised, already passed the stage at which it would be reasonably practicable to comply with them.
- (2) Without prejudice to any other obligation to which it is subject, the Authority shall—
 - (a) do its best to ensure that any additional requirements become known, as soon as is reasonably practicable, to all those who to the Authority’s knowledge play a part (as suppliers of wool, dyers, spinners, weavers or finishers) in the production of material which falls, or has fallen, within the definition of Harris Tweed and whose part is such that the additional requirements in question are of concern to them; and
 - (b) place copies of the regulations which prescribe the additional requirements, as soon as practicable after they are made in the premises which constitute its official address and in any other premises in the Outer Hebrides which are under its control, and from then onwards (until the regulations cease to be in force) keep such copies available, for inspection and for copying, at all such premises.

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PART IV

REMEDIES

9 Injunctions and interdicts

- (1) If the court is satisfied, on the application of—
- (a) the Authority;
 - (b) a person involved in the Harris Tweed industry; or
 - (c) any person or body appearing to the court to be representative of the persons (or of any group of the persons) involved in the Harris Tweed industry,
- that any person is engaging, has engaged, or is likely to engage, in any conduct within subsection (2) below, the court may grant an injunction restraining or, in Scotland, an interdict prohibiting such conduct, and may make such further orders as it considers appropriate.
- (2) A person engages in conduct within this subsection by selling, exposing or offering for sale, or having in his possession for the purposes of sale—
- (a) any material which is represented as Harris Tweed; or
 - (b) any garment or other article which is represented as made (wholly or partly) from material which is Harris Tweed,
- if the material does not fall within the definition of Harris Tweed.
- (3) The remedy made available by subsection (1) above in relation to conduct there mentioned is without prejudice to any other remedy which may be available, in the United Kingdom or any other part of the world, to any person by reason of such conduct.
- (4) In this section “the court” means the Court of Session or a sheriff court in relation to Scotland and the High Court or a county court in relation to England and Wales.

PART V

THE COMPANY AND THE AUTHORITY: SUCCESSION PROVISIONS

10 Property, rights and liabilities of Company to vest in Authority, etc

- (1) On the date on which this section comes into force (referred to in this section as the commencement date) all property, rights and liabilities to which the Company is entitled or subject immediately before that date shall vest in the Authority as the Company’s successor, and shall thenceforth be those of the Authority.
- (2) References in this Act to property, rights and liabilities of the Company are references to all such property, rights and liabilities whether or not capable of being transferred or assigned by the Company.
- (3) It is declared for the avoidance of doubt that—
- (a) in subsection (1) above the reference to property is to property situated in the United Kingdom or in any other part of the world, and the references to rights and to liabilities are references to rights to which the Company is entitled, and to liabilities to which it is subject, under the law of the United Kingdom or of any part of it or under that of any other country or territory; and

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- (b) the rights and liabilities which become those of the Authority by virtue of subsection (1) above shall include rights and liabilities under contracts of employment with all those employed by the Company; and employment with the Company and the Authority under any such contract shall be deemed for all purposes to be a single continuing employment.
- (4) On and after the commencement date the Authority shall be treated for all purposes of corporation tax, capital gains tax and value added tax as if it were the same person as the Company.
- (5) Any agreement made, transaction effected or other thing done by, to or in relation to the Company which is in force or effective immediately before the commencement date shall have effect as if made, effected or done by, to or in relation to the Authority; and accordingly references to the Company—
 - (a) in any agreement (whether or not in writing) and in any deed, bond or instrument;
 - (b) in any process or document issued, prepared or employed for the purposes of any proceedings before any court or other tribunal or authority; and
 - (c) in any other document whatsoever relating to or affecting any property, right or liability of the Company which is transferred by this section,shall be taken as referring to the Authority.
- (6) Any pension scheme maintained by the Company immediately before the commencement date shall be treated as a scheme established by the Authority under paragraph 11 (2) of the Schedule to this Act.

11 Further provisions about Company's foreign property, rights and liabilities

- (1) The Company shall continue in existence notwithstanding the provisions of section 10 of this Act; and it shall be the duty of the Company and of the Authority to take, as and when the Authority considers appropriate, all such steps as may be requisite to secure that the vesting in the Authority as successor, by virtue of section 10 (1) of this Act or this section, of any foreign property, right or liability is effective under the relevant foreign law.
- (2) Until such vesting as is mentioned in subsection (1) above is effective in foreign law, it shall be the duty of the Company to hold the property or right in question for the benefit of, or to discharge the liability on behalf of, the Authority.
- (3) Nothing in subsections (1) and (2) above shall be taken as prejudicing the effect under the law of the United Kingdom or of any part of it of such vesting as is so mentioned.
- (4) Any foreign property or right acquired, or any foreign liability incurred, by the Company after the coming into force of section 10 of this Act shall immediately become the property, right or liability of the Authority and the provisions of subsections (1) and (2) of this section shall apply to it as if it had been acquired or incurred by the Company before the coming into force of section 10 of this Act.
- (5) The Company shall have all the powers it needs for the performance of its duties under this section, but it shall be the duty of the Authority to act on the Company's behalf (so far as possible) in performing the duties imposed on the Company by this section.
- (6) References in this section to any foreign property, right or liability are references to any property, right or liability as respects which any issue arising in any proceedings

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would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outside the United Kingdom.

- (7) Any expenses incurred by the Company under this section shall be met by the Authority.
- (8) Nothing in this Act shall preclude the dissolution of the Company under the provisions of the Companies Act 1985.