

Country of origin label regulations enforced, but...

Country of origin labelling in terms of the Merchandise Act 17 of 1941 is now being enforced by the authorities and companies or individuals found to be contravening the Act will be penalised. But there are some issues that need to be resolved...

By [Renato Palmi](#) 13 May 2008

The Department of Trade and Industry (DTI) and the South African Revenue Services (SARS) will "randomly detain consignments to conduct inspections". According to a notice issued on May 7, "goods that do not comply with the country of origin labelling will be seized" and companies or individuals responsible for contriving the law can be fined R5,000.00 an article or face imprisonment of three years, or both. [1]

The promulgation of the notice on country of origin labelling came into effect a year ago but the window period was intended to allow the textiles, garments and footwear industries time to become familiar with the regulations and take the necessary steps to comply with them. All merchandise imported as well as local made merchandise that fall under the Act have to have a label indicating the country of origin, if imported textiles were used, the fibre content and care instructions. An extension of the Act prohibits retailers from claiming that merchandise is "Made in South Africa" if the merchandise is "reconditioned, rebuilt or remade within South Africa. If merchandise has undergone any restructuring, label information to this effect must be applied to the merchandise. In short, my interpretation of the Act reflects that only merchandise that has been wholly assembled (manufactured) in South Africa can have the "Made in South Africa" label. The Act stipulates that all such information on the labelling must be in clear, legible English.

The Minister of Trade and Industry, Mandisi Mpahlwa, signed the Act when an investigation by the DTI indicated that some retailers were passing off locally made clothing as imports or providing misleading labels that reflected that the products were made in South Africa.

The Department of Trade and Industry has supplied contact details for consumers to report any contraventions. [2] Such initiatives by the DTI are commendable, but I have tried by email and telephone to get hold of the contact person and three days later, I am still awaiting a reply. It is no use enacting such opportunities for consumer activism if the DTI is not capacitated to handle enquiries or responses from the South African consumers.

I emailed numerous other people in the DTI and telephoned them as I have questions relating to the Act. I waited for over 10 minutes for someone to answer the call and then was told to phone a number, which just rang. I was copied into an email message from one DTI official who simply forwarded my list of questions to another DTI employee and I am still waiting for a response. This inefficiency is inexcusable. Some of the questions I have are obvious but clarification is vital so that the ambiguity or misunderstanding of the Act can be clarified. The following is the list of questions I sent to the DTI.

1. In the case of individuals who sell imported or homemade clothing at craft markets, do they also have to comply with the regulations? I ask this because I am always looking at the labels of apparel sellers at these markets and note that most of the garments have only a brand name or no label at all.
2. There are many privately owned boutiques that retail only imported apparel and I know from my own investigations that much of the merchandise sold at these boutiques does not comply fully with the regulations even after a year's grace. Are they subject to the regulations of the Act?
3. Do South African designers need to comply with the regulations and can they only place the "Made in South Africa" label if the entire garment was constructed in South Africa? Does the reconditioning, rebuilding or remaking of apparel mitigate them from having a "Made in South Africa" label?
4. Do factory shops that sell over-runs or rejects have to comply fully with the Act? I recently looked at one of these outlets in Durban and noted that some of the apparel has labels while others do not.

5. What information must be supplied if consumers wish to inform the DTI about infringements of the Act?

A further question I posed to the DTI was in relation to their checking of imports. It is all very well to check merchandise entering South Africa via its different points of entry but I wanted to know if DTI and SARS would be doing random checks shopping malls, on the streets etc for non-compliance of the Act. I think there is a great employment opportunity to create fashion police taskforce to do *in situ* checks at various retail outlets. The initial thought relating to this idea is to train, in each province, individuals in the details about the Act and hence what to look for as well as a historical analysis of the local industry. This fashion taskforce can be equipped with verifiable identification. Such a taskforce would need to be equipped with systems to document any infringements. Such an operation to work effectively would need to be backed by a competent contingent of project leaders with an effective and efficient partnership between DTI, SARS, the South African Police Services (SAPS), the Justice Department, as well as with labour and apparel industry bodies.

I expect to be criticised for wanting to implement further barriers by suggesting that checks are made at various retail outlets for South African fashion designers who are already finding it difficult to create and sustain market share while competing with cheaper imports.

It is imperative that the South African fashion sector mobilises to lobby government to ensure that the regulations are enforced. Enforcement of the Act will "put a lid on corruption and fraud such as transshipment and country of origin swapping" [3] or "to deal with illegal imports." [4] Such illegal activity is cutting away at the local market for South African designers. Furthermore, the enforcement of the Act will provide consumers with the satisfaction that when they buy a garment that has a "Made in South Africa" label they will know for certain (I hope) that the entire product (barring maybe the usage of imported textiles) has been made in South Africa.

The one person from DTI who did respond to a question I posed directly to her was Bulelwa Hewu, the Assistant Director of the Office of Consumer Protection who said that it would be difficult for consumers to verify if the goods "are really made in South Africa." If this is the case, then what must consumers do if they are in doubt about the authenticity of "Made in South Africa" apparel? Do consumers have the right to ask retailers to verify the products or must they contact the DTI if they are in doubt?

The purpose of the Act if mechanisms are put in place to verify "Made in South Africa" labels is intended to empower the consumers knowing that by purchasing such products with the "Made in South Africa" label they will be supporting the entire local apparel value-chain. For the fashion sector the Act can be a catalyst for bring the manufacturing sector and designers together creating business opportunities to produce more "Made in South Africa" designer clothing.

I am also waiting for a reply from Proudly South Africa. I asked them if they would initiate any consumer educational drive around the Act, as this is an ideal opportunity to not only mobilise our consumers to support "Made in South Africa" products. It is also an opportunity to educate the affected industries about the Act and their obligations, although after one year everyone in these industry sectors should by now be applying the label regulations to their products.

Not only is such an educational campaign important for consumer knowledge and rights, it is equally important for importers who have to meet tight delivery times to educate their customers that orders may and can be delayed if consignments are stopped and checked and any penalties for late delivery will need to be waived.

Information circular on "Country of Origin" Notice NO1831 of 2006 (Government Gazette No. 29480) in terms of the Merchandise Marks Act 17 of 1941.

In terms of the notice, Minister Mpahlwa prohibits the importation or the sale in South Africa of merchandise or goods as specified in the schedule, irrespective of whether such merchandise or goods were made or produced in the Republic or elsewhere, unless the following information is attached permanently and prominently:

- The country in which the products were produced or made.
- Where a South African textile manufacturer has used imported griegge fabric to produce dyed, printed or finished fabric, should be indicated that such fabric has been dyed, printed or finished in South Africa from imported fabric.
- That a locally manufactured product using imported material must state "made in South Africa from imported material."

- The goods must conform to the South African national standards for fibre content and care labelling as prescribed in Notice No. 2410 of 2000, published in Government Gazette of 30 June 2000.
- If the goods are reconditioned, rebuilt or remade, within the Republic of South Africa or outside the country, this information should be applied to the goods in legible wording.
- The label should state clearly "made in South Africa" if the product is wholly made in the RSA, otherwise the product does not qualify for such a label.
- When buying items that have been listed in the schedule i.e. textiles, articles of textile, clothing, shoes and leather goods merchandise, whether from the manufacturer or retailer, consumers should ensure that such goods bear a label indicating their country of origin, fibre content as well as care labelling.

[1] Government Notice: <http://www.info.gov.za/speeches/2008/08050709451004.htm>

[2] Aubrey Mathope in the Office of Consumer Protection of the Department of Trade and Industry on:

Tel: 012 394 1553

Cell: 073 348 8194

E-mail: aubreyma@thedti.gov.za

[3] Margie Inggs. "Law aims to cut out rag fraud," *Business Report*, January 29, 2007.

[4] Tom Robbins. "Made in SA liars face prison and fine," *Business Report*, April 19, 2007

ABOUT THE AUTHOR

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