

## ACT NO. IX OF 1891.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 13th March, 1891)*

An Act to amend the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878.

WHEREAS it is expedient to amend the Indian Merchandise Marks Act, 1889, and the Sea Customs Act, 1878; It is hereby enacted as follows:—

IV of 1889. VIII of 1878. 1. In section 1, sub-section (2), of the Indian Merchandise Marks Act, 1889, the words "subject to the provision of the last section of this Act" are hereby repealed. Repeal of part of section 1, Act IV, 1889.

IV of 1889. 2. Section 19 of the Indian Merchandise Marks Act, 1889, and the words "*Transitory Provision*" prefixed to the section, are hereby repealed. Repeal of section 19, Act IV, 1889.

VIII of 1878. IV of 1889. 3. In clause (e), sub-clause (ii), of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (1), of the Indian Merchandise Marks Act, 1889, for the words "that place and the country in which it is situated are" the words "the country in which that place is situated is" shall be substituted. Amendment of section 18 (e) (ii), Act VIII, 1878.

IV of 1889. 4. After section 18 of the Indian Merchandise Marks Act, 1889, as amended by this Act, the following shall be added, namely:— Additions to Act IV, 1889.

"19. For the purposes of section 12 of this Act, and Definition of piece-goods

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and clause (f) of section 18 of the Sea Customs Act, 1878, as amended by this Act, the Governor General in Council may, by notification in the Gazette of India, declare what classes of goods are included in the expression 'piece-goods, such as are ordinarily sold by length or by the piece.'

Determina-  
tion of  
character of  
goods by  
sampling.

"20. (1) The Governor General in Council may make rules, for the purposes of this Act, to provide, with respect to any goods which purport or are alleged to be of uniform number, quantity, measure, gauge or weight, for the number of samples to be selected and tested and for the selection of the samples.

"(2) With respect to any goods for the selection and testing of samples of which provision is not made in any rules for the time being in force under sub-section (1), the Court or officer of customs, as the case may be, having occasion to ascertain the number, quantity, measure, gauge or weight of the goods, shall, by order in writing, determine the number of samples to be selected and tested and the manner in which the samples are to be selected.

"(3) The average of the results of the testing in pursuance of rules under sub-section (1) or of an order under sub-section (2) shall be *prima facie* evidence of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

"(4) If a person having any claim to, or in relation to, any goods of which samples have been selected and tested in pursuance of rules under sub-section (1) or of an order under sub-section (2) desires that any further samples of the goods be selected and tested, they shall, on his written application and on the payment in advance by him to the Court or officer of customs, as the case may be, of such sums for defraying the cost of the further selection and testing as the Court or officer may from time to time require, be selected and tested to such extent as may be permitted by rules to be made by the Governor General in Council in this behalf or as, in the case of goods with respect to which provision is not made in such

such rules, the Court or officer of customs may determine in the circumstances to be reasonable, the samples being selected in manner prescribed under sub-section (1), or in sub-section (2), as the case may be.

“(5) The average of the results of the testing referred to in sub-section (3) and of the further testing under sub-section (4) shall be conclusive proof of the number, quantity, measure, gauge or weight, as the case may be, of the goods.

“(6) Rules under this section shall be made after previous publication.

“21. An officer of the Government whose duty it is to take part in the enforcement of this Act shall not be compelled in any Court to say whence he got any information as to the commission of any offence against this Act.

Information as to commission of offences.

“22. If any person, being within British India, abets the commission, without British India, of any act which, if committed in British India, would under this Act, or under any section of that part of Chapter XVIII of the Indian Penal Code which relates to trade, property and other marks, be an offence, he may be tried for such abetment in any place in British India in which he may be found, and be punished therefor with the punishment to which he would be liable if he had himself committed in that place the act which he abetted.”

Punishment of abetment in India of acts done out of India.

XLV of 1860.